Initial Statement of Reasons
CalHome Program (CalHome)
TITLE 25 CALIFORNIA CODE OF REGULATIONS
DIVISION 1, CHAPTER 7, SUBCHAPTER 9
COMMENCING WITH SECTION 7715

INTRODUCTION / PURPOSE

This Initial Statement of Reasons (ISOR) provides conceptual and factual support for regulations proposed for the CalHome Program (CalHome).

These regulations are being adopted to comply with the mandate of Health and Safety Code Section 50650, which was enacted as CalHome's program statutes in SB 1656, Chapter 84, and Statutes of 2000.

BACKGROUND / HISTORY

The CalHome Program was enacted by SB 1656 (Chapter 84 of 2000). CalHome is an omnibus homeownership program that provides funding for various types of activities to assist low-income households to become or remain homeowners. This legislation also replaces the Senior Citizen's Shared Housing Program.

These regulations are being adopted pursuant to Section 50650.7 of the CalHome statutes, which allow the program to be operated for 24 months using guidelines, but require the adoption of regulations to operate after that time period.

The CalHome Program's purpose is to provide funds to local public agencies (localities) or nonprofit corporations as either grants for programs that assist individual households or loans that assist multi-unit homeownership development, mutual housing or limited equity cooperative projects. The program is intended to support existing homeownership programs aimed at low- and very low-income households, operated by private nonprofit corporations and localities, thereby to increase homeownership, encourage neighborhood revitalization and sustainable development, and maximize use of existing homes.

Allowable uses of CalHome funds are for first-time homebuyer downpayment assistance, homeowner rehabilitation, manufactured housing rehabilitation and replacement, homebuyer counseling, home acquisition with rehabilitation, self-help mortgage assistance, or for technical assistance for self-help and shared housing.

The CalHome Program has been operating under Guidelines adopted on November 2, 2000. During the two years of the CalHome Program's operation, the Department has received important feedback from the Program Recipients regarding the effectiveness of the original Guidelines. These Regulations represent a concerted effort to incorporate the lessons learned from the CalHome Program's initial operation.

The following Department programs were an important reference for development of the format of these regulations:

- The California Housing Rehabilitation Program for Owner-Occupied Housing Program (CHRP-O). The regulations for CHRP-O Program can be found in California Code of Regulations (CCR) Title 25, commencing at Section 8040.

- The Home Investment Partnerships Program (HOME). The regulations for HOME Program can be found in CCR Title 25, commencing at Section 8200.

- The California Self Help Housing Program (CSHHP). The regulations for CSHHP Program can be found in CCR, Title 25 commencing at Section 7530.

- The Joe Serna Junior Farmworker Housing Grant Program. The regulations for JSJFWHG Program can be found in CCR Title 25, commencing at Section 7200.

The Department consulted with various potential customers in the development of the original guidelines. Focus group meetings were held in various parts of the State in October 2000. The guidelines have not been revised since their adoption on November 2, 2000, however they are being revised during their conversion into draft regulations.

Authority for these regulations resides in the CalHome program statutes and in the Department's general statutes, especially Health and Safety (H&S) Code, Section 50406(n), which gives the Department the powers "to do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this division".

PROPOSED REGULATIONS

Section: 7715. Purpose and Scope

Requirement or Necessity: General authority to adopt these regulations resides in: 1) Health and Safety (H&S) Code, Section 50406(n) which empowers the Department to "do any and all things necessary to carry out its purposes and exercise the powers expressly granted;" 2) H&S Code, Section 50650.2, which requires the Department to administer the CalHome Program; and 3) H&S Code, Section 50650.7, which requires the Department to adopt regulations for this program. These general authorities apply to all sections of these regulations.

It is customary and useful to begin a body of regulations with a statement of their authority, purpose and the general activities, which they regulate. In this case, the "purpose" subsection (a) also cites the statutory basis and authority for this program.

Documentation, Study or Report: Existing regulations for Department loan and grant programs were surveyed. Almost all have initial sections titled "General," "Purpose," "Scope and Authority," Purpose and Scope'" etc. These sections provide information similar to that in Section 7715. The principal model is the regulations for the California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), (CCR Title 25, commencing with Section 8040).

Alternatives Considered: None. Not to have a general introductory section would reduce the accessibility of the regulations and statutes to the user.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: No adverse impacts are imposed.

Section: 7716. Definitions

Requirements or Necessity: It is essential that critical terms in regulatory language be defined to ensure uniform interpretation and application. Precise definitions help to avoid confusion and eliminate ambiguity regarding program requirements. The result is that less customer and program staff time and discussion will be necessary to interpret the regulations. Where feasible, these proposed regulations employ definitions already in use by the Department and understood by housing providers who are familiar with real estate lending industry practices and with other Department programs.

Documentation, Study or Report: The definitions in this section are based on or supplemented by definitions in several other statutes and regulations. These include the CalHome statutes (H&S Code, Sections 50650.3-50650.5), the Department's general statutes (H&S Code, Sections 50050-50105), the Department's general regulations (CCR Title 25, Section 6912 et seq.), Low-Income housing statutes (H&S Code, Section 50199.4), Housing Advisory Service statutes (H&S Code, Section 50692), Mobilehome-Manufactured Housing statutes (H&S Code, Section 18008), State Housing Law statutes (H&S Code, Section 17910 et seq.), Mobilehome Parks Act (CCR Title 25, Section 1704), California Self-Help Housing Program regulations (CCR Title 25, Section 7530 et seq.).

Alternatives Considered: None. No adverse impacts imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: None. Some definitions such as "homebuyer education" refer to other prescribed standards. These will be discussed in the appropriate sections.

Fiscal and Economic Impacts: No adverse impacts are imposed.

Discussion:

Introductory paragraph: To avoid unnecessary duplication of language, the introductory paragraph of Section 7716 adopts a number of existing definitions by reference, from departmental general statutes in the Health & Safety Code and departmental general regulations. While every effort has been made to avoid conflicts among definitions, it is stated that in the event of conflict, the definitions in these regulations will prevail.

Subsection (a) "Affordable" This term is used to define the line between financial health and financial hardship for a person or family. It is used in the mortgage industry to describe the amount a person or household can pay on a monthly basis for their housing costs, and still cover their other financial obligations. It is often described in terms of the ratio between income and housing cost, and is given a range that is "affordable". This range changes at times and places to reflect the local and current housing market. As it relates to mortgage underwriting the CalHome Program will allow the 1st mortgage lender to make the determination regarding what the household can "afford" (see Section 7725(a)(1)). The Recipient (the local program) should perform due diligence in its review of the mortgage assistance transactions it funds with CalHome Program loans to make sure the borrower will be able to meet these new financial obligations without serious hardship.

Subsection (b) "After-Rehabilitation Value" This term is used in several places in the regulations in relation to the owner-occupied rehabilitation programs allowed under CalHome statutes. This is a common industry term used in appraisals prepared on properties to be rehabilitated. Such an appraisal will generally determine the value of the property "as is" and then estimate the value of the property upon completion of the proposed rehabilitation work. The after-rehabilitation value is important in determining the eligibility of a project under CalHome value limits (Section 7735(b)(2)) and to determine if the project will meet the CalHome loan-to-value limits (Section 7727(b)).

Subsection (c) "Applicant" This term is used throughout the regulations to describe entities that submit applications for funding in response to Notices of Funding Availability (NOFAs) issued by the Department. This term differentiates those who have applied for funding from those entities that have actually received an award of funds based on the rating and ranking of their application.

Subsection (d) "Assisted unit" CalHome has the ability under statute to fund a variety of homeownership activities. This term provides one term to describe any household unit that has received either direct or indirect CalHome assistance through one of the CalHome eligible activities. It is used in the application selection process and in establishing performance goals (Sections 7750 and 7755).

Subsection (e) "Back-end Ratio" This is a term used in mortgage underwriting which takes into account the prospective borrowers' total long-term installment debt liabilities. The ratio is figured using the monthly PITI payment (principal, interest, taxes and insurance) for the proposed mortgage loan, plus the long-term debt installment payments (typically for debts with 10 or more monthly payments remaining) and dividing this sum by the household gross monthly income. The mortgage industry sets standards for these ratios (say 42% - 50%) and uses them as a predictor of the borrowers' likely success.

Subsection (f) "Borrower" This term provides a basic identifying word for individual households who receive a deferred payment loan funded with CalHome money. This term appears throughout the regulations.

Subsection (g) "Community revitalization" This term is used in the application selection criteria used in allocating CalHome funds (Section 7751). CalHome statutes (H&S Code, Section 50650.4) direct the Department to utilize weighted evaluation criteria that include contribution to community revitalization. Various methods of determining how to objectively measure community revitalization were researched. This included examination of federal, state and local programs that focus on community revitalization. The measure used needed to be: 1) based on information readily available for all potential CalHome applicants, 2) easy to document at time of application, and 3) verifiable upon expenditure of CalHome funds.

Two measures of contribution to Community revitalization were selected that met these criteria. One was to use the federal Department of Housing and Urban Development's (HUD) identification of "Qualified Census Tracts" (QCT). This is a designation familiar to many jurisdictions and housing organizations as a criterion used in tax credit allocations. The California Tax Credit Allocation Committee (TCAC) Regulations include QCTs as part of their definition of "Neighborhood Revitalization Area". (CCR Title 4, Section 10302(w)). The second measure was to use a local jurisdiction's designation of "redevelopment areas" (RDA) as the focus of revitalization efforts. These are areas that can also be identified by TCAC as "Neighborhood Revitalization Areas".

Subsection (h) "Construction skills training program" This definition applies in the application selection criteria used in allocating CalHome funds (Section 7751). CalHome statutes (H&S

Code, Section 50650.4) direct the Department to utilize weighted evaluation criteria that include the extent to which a program or project trains youth in construction skills. Requiring that only "existing" programs meet this definition was to ensure that the training program is operated by an organization with experience in this area. Minors under the age of 16 years are prohibited from working in a building or construction occupation of any kind. (CCR Title 8, Section 11701)). Age twenty-four was selected as the upper limit of "youth" to coincide with the definition established by HUD's Youthbuilt program which was authorized as the "Hope for Youth" program on October 28, 1992.

Subsection (i) "Department" This is a short-form usage for frequent references to the Department of Housing and Community Development in the regulations.

Subsection (j) "Developer" This is a term used to describe the applicants that are eligible to apply for and receive homeownership project development loan funds under the CalHome Program. The definition clarifies that the applicant must have control over all aspects of the development in order to be considered the "developer" of the project.

Subsection (k) "Developer borrower" This term is used frequently in the regulations and describes a developer that is or will be the borrower of the Department's homeownership project development loan. This term differentiates those developers who have actually received an award of funds based on the rating and ranking of their application from those developers who have applied for funding, described as "applicants".

Subsection (l) "Eligible household" It is necessary to define who is eligible to be assisted with CalHome Program funding (Section 7720). The statutes require households eligible for assistance to be low- or very low-income. They further define an eligible household as one that requires assistance to become or to remain homeowners (H&S Code, Section 50650.3(a)). Finally, they state that downpayment assistance be provided to first-time homebuyers (H&S Code, Section 50650.3(b). This term appears throughout the regulations.

Subsection (m) "First-time homebuyer" This is a basic requirement (Section 7720) of a household to be assisted with mortgage assistance per statute (H&S Code, Section 50650.3(b)). This is a term that can have various definitions, depending on the funding source and program operator. In order to maintain consistency with other HCD mortgage assistance programs, this definition is based on the definition used in HOME Investment Partnership Program (Title 25 California Code of Regulations, Section 8201(k)). The term is used throughout the regulations.

Subsection (n) "Front-end Ratio" This is a term used in mortgage underwriting. The ratio is figured using the monthly PITI payment (principal, interest, taxes and insurance) for the proposed mortgage loan, and dividing this sum by the household gross monthly income. The mortgage industry sets standards for the high end of this ratio (say 38%- 42%) and uses it as a predictor of the borrower's long-term ability to make the mortgage payment. The front-end ratio in a given mortgage transaction is one of the factors used by the underwriters to approve or deny the mortgage loan.

Subsection (o) "Grant" By statute, the Department may award and disburse funds in one of two forms, as grants or loans (H&S Code, Section 50650.3). Grants are provided to eligible applicants for the purpose of operating programs. Grant funding does not have to be repaid to the Department, provided that the use of the funds complies with all requirements of the program. Funds awarded in the form of homeownership project development loans may be converted to grants for a program to provide mortgage assistance to first-time homebuyers (H&S Code, Section 50650.3(b)). The term is used throughout the regulations.

Subsection (p) "Gross income" A statutory requirement of the program (H&S Code, Section 50650.3(a)) is that assisted households be low- or very low-income income (Section 7721). Furthermore, one of the mortgage assistance underwriting requirements is that household debt ratios based on gross income be within certain parameters (Section 7731(a)(1)). The Department has adopted the definition of gross income for all program eligibility determinations as is stated in CCR Title 25, Division 1, Chapter 65, Subchapter 2, Section 6914.

Subsection (q) "Homebuyer education" By statute, homebuyer counseling is an eligible use of funds (H&S Code, Section 50650.3(b)). It is necessary for the Department to define what that term encompasses in order to provide consistency and minimum standards across all mortgage assistance local grant programs (Section 7722). Completion of a homebuyer education course is a requirement for all households receiving mortgage assistance or for owner-builders participating in a self-help technical assistance project funded by CalHome.

Subsection (r) "Homeowner provider" An eligible use of funds is for technical assistance for shared housing programs (H&S Code, Section 50630.3(b)). Shared housing program operators bring together a homeowner who wishes to rent a room in their home to a tenant in exchange for rent and/or services to be provided by the tenant. Contact with a statewide organization of shared housing organizations and examination of the program design of localities currently funding shared housing programs provided the most common term used to describe persons wishing to share their home as "providers". Furthermore the statutes set out that the providers are to be homeowners (H&S Code, Section 50650(b)). The term is used in sections regarding eligible applicants, eligible households and administration of shared housing programs (Sections 7739, 7740 and 7741).

Subsection (s) "Homeownership" CalHome is a homeownership program (H&S Code, Section 50650(c)). The term is used throughout the regulations. It is necessary to define what forms of ownership are eligible for program assistance. Standard industry terms describing long-term interest in property are used. In addition, the statute specifically includes "mutual housing" and "limited equity cooperatives" as forms of homeownership (H&S Code, Section 50650.5). These two forms of ownership are more particularly defined elsewhere in this section.

Subsection (t) "Homeownership development project" The Department may award loans to fund homeownership development projects (H&S Code, Section 50650.3(a)(2)). The statute includes subdivisions, but clearly may also involve infill sites or even scattered sites developed as one project. This definition clarifies that the loans are for projects that will be constructing newly built homes. The term is used in many sections of the regulations.

Subsection (u) “Household” This definition is required in order to determine whose income must be considered in determining income-eligibility for Program assistance. The gross income of all “household” members age 18 or over must be calculated in income eligibility determinations. The term “household” is preferred over the term “family” as homes may be occupied by persons not having a familial relationship. This term appears throughout the regulations.

Subsection (v) “Loan-to-value ratio” This is a common underwriting term in the lending industry. As used in the regulations, it refers to the ratio of all monetary liens, or their remaining unpaid balance, to be recorded or already recorded on the assisted real property. It also refers to the ratio of all monetary liens, or their remaining unpaid balance, to be placed already placed on the title of an assisted manufactured housing unit. As a fundamental underwriting requirement of the Program, the regulations establish maximum allowable loan-to-value ratios (LTV) for mortgage assistance, owner-occupied rehabilitation and homeownership project development loans (Section 7727).

Subsection (w) “Local public agency” It is necessary to define what this term means for eligibility to submit applications for funding in response to a NOFA. The term “localities” is used throughout the regulations. The statue states that eligible applicants can be nonprofit corporations and local government agencies (H&S Code, Section 50650). There can be multiple local public agencies in one jurisdiction. Throughout the regulations, this group of eligible applicants is referred to as “localities.”

The intent of the definition regarding public entities is that within any one political jurisdiction, only one application in response to a NOFA may be submitted and it should be submitted by the public entity delegated the responsibility to administer all or substantially all of the jurisdiction’s housing activities. For example, a City and the redevelopment agency of that City could not both submit applications. With limited funding available, the Department wishes to be able to award funding to as many different jurisdictions as possible.

Subsection (x) “Local program” This is a term for the activities that can be funded by a grant from the Department to eligible recipients, excepting self-help technical assistance. This also, distinguishes between the CalHome Program at the Department level and the programs administered at the local level. This term is used throughout the regulations.

Subsection (y) “Lower- or low-income household” Statute requires that assistance be provided to individual households that are low- or very low-income (H&S Code, Section 50650.3). The regulations use the definition of lower-income households as found in the Health and Safety Code (H&S Code, Section 50079.5). This definition clarifies that the terms Lower-income and Low-income are interchangeable. The term is used in several places in the regulations to describe this eligibility requirement for assisted households.

Subsection (z) “Manufactured housing” Some households currently live in or choose to purchase manufactured housing for their primary place of residence. Therefore, it is necessary to have a definition of manufactured housing to ensure that the unit is built to certain standards and is designed to be used as a year-round primary residence. These regulations adopt the definition of manufactured housing as stated in the Health and Safety Code (H&S Code, Section 180087).

This term is used throughout the regulations.

Throughout the regulations the legal terms relating to real property are used. These terms are applicable to conventionally built housing and to manufactured housing units that are permanently affixed to a foundation. This definition clarifies that wherever terms related to real property are used in the regulations, e.g., secured by a deed of trust, they should be read so as to include the terms that would apply to manufactured housing that is not permanently affixed to a foundation.

Subsection (aa) “Monthly housing cost” Since the intent of providing mortgage assistance is to make homeownership affordable to lower-income households, the regulations need to have a method of measuring affordability and the amount of assistance necessary to achieve affordability (Section 7731 and 7735). A household’s monthly housing cost is a fundamental figure in these calculations along with gross income. It is used specifically in measuring home purchase affordability and the amount of mortgage assistance necessary to reach affordability. It is not used in relation to owner-occupied rehabilitation loans, because the addition a of a deferred payment loan as a lien on those owners’ properties does not change the monthly housing costs for those homeowners. The definition further defines which costs must be included when determining the amount of monthly housing costs.

Subsection (aa)(1) Principal, interest and loan insurance fees are standard home lending industry terms relating to monthly payments on a loan.

Subsection (aa)(2) Property taxes and assessments are standard terms that refer to items paid by a property owner to the County Tax Assessor where their home is located.

Subsection (aa)(3) Under the CalHome, all borrower’s are required to purchase and maintain fire and casualty insurance. Requiring the homeowner to purchase and maintain fire and casualty insurance sufficient to cover the replacement value of property improvements is a standard home-lending industry practice to protect the lender’s investment. The insurance may also be referred to as “hazard” or “homeowner’s” insurance.

Subsection (aa)(4) Homeowner association fees or dues are a standard industry term describing payments made by some homeowners to a governing neighborhood or development association.

Subsection (aa)(5) Lease payments means payments made on real property, underlying the CalHome assisted unit, under a long-term agreement between the CalHome borrower and the owner of the land.

Subsection (aa)(6) Space rent refers to the payment a manufactured housing owner pays to the landlord of a mobilehome park for the space the housing occupies. In these cases, the manufactured housing unit is not permanently affixed to a foundation.

Subsection (bb) "Mortgage": This is a standard home-lending industry term. As deeds of trust are only applicable to real property, certain loans on manufactured housing will require an alternate form of security for the CalHome loan. Generally, this will be a lien on the title to the manufactured housing.

Subsection (cc) "Mortgage assistance" The statutes appropriate funds to assist low- and very low-income households to become homeowners by providing downpayment or, as referred to in these regulations, "mortgage assistance" loans (H&S Code, Section 50650.3). The intent is to make homeownership affordable to these lower-income households (H&S Code, Section 50650(b)). This definition clarifies what mortgage assistance is used for and includes the intent of making homes affordable by reducing the amount of the amortized first mortgage loan. This term is used in many sections of the regulations.

Subsection (dd) "Mortgage financing" This is a standard home-lending industry term. The regulations require all households receiving mortgage assistance to qualify for a first mortgage loan (Section 7731 (3)). The term is used in many places in the regulations. As deeds of trust are only applicable to real property, certain loans on manufactured housing will require an alternate form of security for the CalHome loan. Generally, this will be a lien on the title to the manufactured housing.

Subsection (ee) "Mortgage lender" Although this is a standard home lending industry term, the definition also adds the requirement that mortgage lenders have the capacity and experience necessary for making these types of loans and for servicing the loans. It also requires that mortgage financing be the primary purpose of the lending institution. CalHome loans are subordinate to the first mortgage lender and therefore have greater risk. The intent is to have the first mortgage lender be experienced in providing this type of financing and in servicing the loans over the long term. Among other things, payments of property taxes and insurance on the property rely on the impound account collected and maintained by the first mortgage lender. In addition, the definition has allowed for first mortgage financing from experienced nationwide institutions engaged in the development of housing who also provide first mortgage financing to the purchasers of the homes they develop, e.g., Habitat for Humanity.

Subsection (ff) "Mutual housing" The statute specifically states that "mutual housing" is deemed to be homeownership for purposes of the CalHome Program (H&S Code, Section 50650.5). Research of this term throughout the housing and lending industry provided no standard definition of this term "mutual housing." Structures or forms of "mutual housing" projects nationwide were examined. Mutual housing generally involves a multi-unit project in which residents pay rent to the mutual housing organization, which owns the property. The mutual housing organization involves resident participation in managing and maintenance of the project. Beyond these basics, the actual project can take many organizational forms and the rights and responsibilities of the residents can vary greatly. As CalHome was intended to provide affordable "homeownership" opportunities, this definition provides that the structure of the mutual housing project must allow each resident a divisible, vested financial interest in the project, the value of which can be determined by lenders in the housing market. In addition, the resident must have a right to occupy a specific unit for an indefinite period. These requirements correlate to the kind of benefits residents have in a "stock cooperative" or "limited equity cooperative".

Subsection (gg) “NOFA” This is a Department acronym for “Notice of Funding Availability”. A NOFA is the vehicle by which the Department solicits applications for funding. The term is primarily used in the sections regarding application procedures (Sections 7731, 7733 and 7737).

Subsection (hh) “Nonprofit corporation” The statutes define nonprofit corporations as an eligible applicant for funding (H&S Code, Section 50650.3(a)). The regulations adopt the definition from the housing and home finance part of the Health and Safety code (H&S Code, Section 50091). The term is used throughout the regulations.

Subsection (ii) “Recipient” This term describes an entity that has received an award of Program funds. This term differentiates those entities that have actually received an award of funds based on the rating and ranking of their application from those who have merely applied for funding. The term appears frequently in the regulations.

Subsection (jj) “Refinance” It was necessary to clarify this lending term for purposes of describing prohibited uses of funds that are provided as deferred payment loans to individual households and to describe a loan-accelerating event (Section 7719).

Subsection (kk) “Rehabilitation” The statutes identified a need for funding to homeowners to make necessary repairs to their homes (H & S Code, Section 50650(b)) and also authorizes deferred payment loans to homeowners for rehabilitation of their homes (H&S Code, Section 50650.3(a)(2)). It is necessary to define exactly what rehabilitation means in terms of eligible costs to be funded under the program. The program has decided that any conditions of a conventionally built home or manufactured home that are substandard are “necessary” repairs. As such, the definition of rehabilitation in the Health and Safety Code has been adopted (H&S Code, Section 50096) and the definition of substandard conditions in the code has been adopted (H&S Code, Section 17920.3). For rehabilitation of manufactured housing, the definition of substandard conditions has been adopted from the Title 25 of the California Code of Regulations (CCR Title 25, Section 1704). This term is used throughout the regulations. However, replacement of personal property has been excluded as personal property can be removed from the property when the homeowner moves. Since the CalHome Program’s statutory intent is to support existing programs, the definition of rehabilitation must also include repairs and improvements which are necessary to meet locally adopted standards used in local rehabilitation programs. Additionally, situations often exist where the homeowners are living in an overcrowded situation. It is the intent of the program to allow room additions as required to alleviate overcrowded conditions.

Subsection (ll) “Reuse account” Statutes require all assistance to individual households to be in the form of deferred payment loans. They further require the loans to be repayable to the recipient and re-used for activities allowed under grants to localities and nonprofit corporations. The account is required to be governed by a reuse plan approved by the Department (H&S Code, Section 50650.3(b)). The regulations itemize the Department’s requirements for developing an approvable reuse plan (Section 7724).

Subsection (mm) "Rural Area" The CalHome Statutes direct the Department to use an application process that will ensure, to the extent feasible, a reasonable geographic distribution of funds (H&S Code, Section 50650.4). The Department has defined rural area, in order to consider urban versus rural area distribution of funding into consideration in making awards.

Subsection (nn) "Seeker" One of the eligible uses of funds is for technical assistance for shared housing programs (H&S Code, Section 50630.3(b)). Shared housing programs bring together a person who wishes to rent a room in their home to a tenant in exchange for rent and/or services to be provided by the seeker. Contact with a statewide organization of shared housing organizations and examination of the program design of localities operating shared housing programs provided the most common term used to describe persons wishing to be a tenant under these conditions as "seekers".

Subsection (oo) "Self-help construction" The program adopted the definition of this term found in the Health and Safety Code (H&S Code, Sections 50692 and 50087).This is the definition found in the Department's CSHHP Program (CCR Title 25, Section 7532). CSHHP has operated a self-help technical assistance program successfully for a number of years and the Department has chosen to make no adjustment to this definition for the CalHome Program.

Subsection (pp) "Self-help technical assistance" This definition is derived from the definition of "Eligible Sponsors" found in the California Self-Help Housing Program (H&S Code CCR Title 25, Section 7532). CSHHP has operated a self-help technical assistance program successfully for a number of years and the Department has chosen to make no adjustment to this definition for the CalHome Program.

Subsection (qq) "Shared housing" An eligible use of CalHome funds is for technical assistance for shared housing programs (H&S Code, Section 506530.3(b)) that assist homeowner providers (H&S Code, Section 50650(b)). This definition sets out the basic transaction or result to be accomplished through a shared housing program.

Subsection (rr) "Shared housing match" Contact with a statewide organization of shared housing program operators and examination of the program design of localities currently funding shared housing programs provided the most common term used to describe successfully placing a seeker into the home of provider. A shared housing match constitutes an assisted unit.

Subsection (ss) "Shared housing technical assistance" This term is defined to mean all the functions performed by a recipient to successfully match homeowner providers with seekers.

Subsection (tt) "Site control" The regulations require eligible applicants for a homeownership project development loan or a self-help technical assistance grant to have site control at time of application (Section 7744).

Subsection (uu) "Standard Agreement" This term is used frequently in the regulations and refers to the contractual agreement entered into between the Department and a recipient once funds have been conditionally awarded.

Subsection (vv) "Volunteer labor" This term is used in Section 7751 regarding the selection criteria used in allocating Program funds. CalHome statutes (H&S Code, Section 50650.4) direct the Department to utilize weighted evaluation criteria that includes the use of volunteer labor and community participation. The Department is interpreting volunteer labor as constituting community participation. The definition adopted here is based on a description that would be understood by the general population.

Section: 7717. Applicant Eligibility Requirements

Requirement or Necessity: It is necessary for a public program that awards public funds for public purposes to define the entities that are eligible to apply for and receive these funds. The provisions are based on the Department's experience with similar programs and are intended to ensure to the maximum degree possible that applicants have the appropriate structure, capabilities, experience, and control of proposed project sites, when necessary, to utilize Program funds in a timely manner for maximum benefit to lower-income households.

Documentation, Study or Report: The CalHome statutes identify a basic list of the types of entities eligible to apply for CalHome funds (H&S Code, Sections 50650(c) and 50650.3). The statutes also require eligible entities to demonstrate sufficient organizational stability and capacity to carry out the activity for which they are requesting funds (H&S Code, Section 50650.4). The statute further states that the purpose of the CalHome Program is to support existing homeownership programs (H&S Code, Section 50650(c)) aimed at lower- and very low-income households, indicating that experience is required of applicants, as is current or recent operation of the type of program or development of the type of project for which the applicant is requesting CalHome funding.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section establishes an implied performance standard that applicants must be judged to have a sufficient level of experience and administrative capabilities in order to successfully administer and complete the type of program or project for which they are applying.

Fiscal and Economic Impacts: No adverse impacts are imposed.

Discussion:

Subsection (a)(1-2) States the basic categories of eligible applicants. This section further defines the allowable area of operation for each type of eligible applicant. The City and County areas of operation may seem obvious, but Department experience indicates that this needs to be clearly stated at the outset to avoid confusion.

Instances arose in the Department's HOME Program where County applicants wished to provide loans on properties within incorporated city boundaries and vice versa. Applications for funding must be authorized by the governing board of a jurisdiction. The Department has determined that it is not appropriate for a jurisdiction to use CalHome funds to provide loans outside of their jurisdictional boundaries where they have no authority.

The geographic limitations on nonprofit applicants are based on Department experience. Nonprofit corporations are generally more successful in geographic areas in which they are already established. This is likely due to many factors, including knowledge of the local market, connection to local lenders and established relationships with local governments. If a nonprofit has no prior or recent experience in a county, but has received a United State Department of Agriculture (USDA) Rural Services 523 grant, it indicates they have a committed source of self-help technical assistance funding available for affordable home construction in that county.

Subsection (b)(1) Identified here is the criteria that will be used in judging the organizational stability and capacity of applicants. To be considered an eligible applicant for CalHome funds, the statute requires the applicant to "demonstrate sufficient organizational stability and capacity to carry out the activity for which they are requesting funds" (H&S Code, Section 506550.4). This subsection of the regulations specifies the Program requirements for demonstrating organizational stability, subsection (b)(1), and capacity to perform the specific activity for which funding is being requested. All applicants must demonstrate organizational stability in the same manner. Requirements for demonstrating capacity vary according to the type of eligible activity for which the applicant is applying.

Subsection (b)(2) Requires all applicants to have been in existence as a housing developer or housing administrator for a minimum of four years immediately preceding the application date. The goal is to have applicants who have at least four years of experience in actually administering a housing program or experience in the development or rehabilitation of housing. The Department did not wish to require too many years of existence and perhaps eliminate some worthwhile applicants. However, four years seemed the minimum time it would require for an applicant to establish a program or project design, acquire and train staff, and to actually acquire a track record of producing or assisting affordable housing that would indicate a successful program.

Subsection (b)(3) Nonprofit applicants are required to have had as their exempt purpose for those four years, the development or rehabilitation of low-income housing or the provision of technical assistance for shared housing or self-help construction, as applicable to the activity for which they are applying. Nonprofit organizations are only eligible to apply in the capacity of a developer of low-income housing, including rehabilitation, or as providers of self-help or shared housing technical assistance providers.

Subsection (b)(4) Nonprofit applicants are also required to demonstrate financial stability to the Department. The Department wishes to award funding to nonprofits that have the financial capital and cash flow to carry out the proposed activity. Therefore, nonprofit applicants will be required to submit recent audited financial statements for Department review. Some items that may be reviewed are: the ratio of assets to liabilities; expense categories as a percentage of revenue and support; and whether the cash flow from operating activities is positive.

Subsection (b)(5) Detailed requirements of organizational stability and capacity are defined in each eligible program activity section.

Section: 7718. Eligible Activities

Requirement or Necessity: Program funding may be used for a variety of activities supportive of affordable homeownership. It is necessary to define the types of activities for which funding may be requested. As the Program has both localities and nonprofit housing corporations as eligible applicants, the provisions distinguish some differences between these applicants and the activities for which they may apply. This is based on the Department's experience with funding both localities and nonprofit housing corporations and upon the Department's understanding of the differences in the way these two types of entities operate. The Department expects nonprofit housing corporations to have a much higher degree of in-house capacity for administration and operation of housing programs or for the development of homeownership projects, including self-help construction projects.

Documentation, Study or Report: The CalHome statutes identify the types of eligible activities to be supported and whether the funding will be awarded as a grant or a loan from the Department to the recipient (H&S Code, Section 50650.3).

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: No adverse impacts are imposed.

Discussion:

Subsection (a) Itemizes the types of program activities eligible for grant funding under CalHome. The eligible activities are specified in the CalHome statutes (H&S Code, Section 50650.3)

Subsection (a)(1) Identifies mortgage assistance (downpayment assistance) to first-time homebuyers as an eligible grant activity.

Subsection (a)(2) Identifies owner-occupied rehabilitation as an eligible grant activity. Rehabilitation of manufactured housing not on a permanent foundation (mobile homes) is also specifically designated as an eligible activity.

Subsection (a)(3) Identifies technical assistance for self-help housing as an eligible grant activity. The applicant must be providing the services directly, not contracting with a third party, since the award of funds is based on a competitive rating of their experience in providing the needed services.

Subsection (a)(4) Identifies technical assistance for shared housing homeownership programs as an eligible grant activity. Applicants are required to provide the required services rather than act as a pass-through to other organizations, since the award of funds is based on a competitive rating of their experience in providing the needed services.

Subsection (b) Identifies loans for: 1) the development of new construction homeownership projects; or 2) development/permanent loans to mutual housing or limited equity housing cooperative projects as eligible activities.

Subsection (c) Certain limitations are placed on the awarding of funds for these purposes. Projects that have begun construction work prior to the date that the Department awards a commitment of funding are not eligible for a CalHome loan.

It is the Department's experience and generally true in the industry, that a project does not begin actual construction until all sources of funding to complete the project have been committed. Lenders are not willing to expend their construction funds on a project without the certainty of sufficient funding to complete the project so that permanent financing can be obtained to pay off the construction loans. To prevent potential applicants from interpreting this subsection to mean commencement of unit or building construction, it identifies other types of construction commencement that would preclude a project from receiving CalHome funding.

Section: 7719. Eligible and Ineligible Uses of Funds

Requirement or Necessity: Having defined eligible applicants and the types of eligible activities, it is necessary to define the specific costs for which CalHome funds may be expended. The detailed description of eligible uses of funds is found in each section of the regulations related to a specific program activity. The provisions are intended to maximize the use of funds, assist the greatest number of households and avoid paying for unnecessary or excessive costs. In the Department's experience it is necessary to identify specific prohibited uses of funds. This adds clarity to the regulations and hopefully avoids having an applicant apply for or receive funding that they then discover cannot be used for the purposes they intended. It is important that funding be used both expeditiously and properly. These provisions are intended to promote that goal.

Documentation, Study or Report: The CalHome statutes itemize certain uses of funding (H&S Code Ssection 50650.3 and 50650.5). The provisions are based on Department experience with other programs, specifically, CHRP-O, JSFWHG, CSSHP and Home Investment Partnerships Program (HOME). The provisions for shared housing technical assistance were developed through contact with public agencies currently funding this activity. Defining uses of funds that are prohibited or not allowed is derived from an interpretation of the CalHome regulations (H&S Code, sSection 50650.3) and is intended to maximize the benefits achieved with CalHome funds. Eliminating certain uses that applicants might assume are eligible avoids confusion, delays and ensures that funds are directed to the allowable uses.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: Prohibited uses of funds are a specification of some cost items that, in the Department's interpretation, are not authorized by legislation or are not the best use of limited funding. This is not necessarily an all-inclusive list, but a listing of those items the Department believes are most likely to cause misunderstanding.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Specific eligible uses of CalHome Program funds are described in the sections for each eligible program activity.

Subsection (b)(1-7) Provides details on the prohibited use of CalHome Program funds. This list is indicative, but not exhaustive.

Subsection (b)(1) Prohibits CalHome funds from being used to refinance existing loans on an assisted property. The issue of refinancing existing loans would potentially arise in the owner-occupied rehabilitation activity. Homeowners applying for a rehabilitation loan often have an existing loan on their house. In some cases the homeowner might like to use CalHome funds to refinance an existing loan to reduce monthly housing costs. However, the Department has decided this is a use of funds that would detract from the primary purpose of the program. Funds used for refinancing would not contribute to helping homeowners in making "necessary repairs to their homes," identified as a need in the statutes (H&S Code, Section 50650). In other words, using CalHome funds for refinancing of existing loans would reduce the amount of funds available for funding rehabilitation activities.

The exception made here has to do with project development loans. As stated above in the eligible uses section, refinancing, or paying off, a bridge loan with a term of 36 months or less, is an eligible use. This ends up being the only circumstance in which CalHome funds may be used to refinance an existing loan on a piece of property.

Subsection (b)(2) Prohibits CalHome funds from being used to make repairs to non-dwelling structures that are not integral to the dwelling. The intended use of funds is to rehabilitate dwelling units that are substandard. If funds are used to rehabilitate a manufactured housing unit, the Department has determined that funding should be used to rehabilitate the actual manufactured housing unit and not accessory structures, e.g., sheds or fences.

However, it was determined that the Department should allow two exceptions to this prohibition. Through discussions with Department mobilehome park inspectors, it was determined that some parks may have rules and requirements regarding accessory structures that a homeowner may be violating, resulting in potential eviction from the park. Furthermore, it may be impossible to do certain required rehabilitation work to the manufactured housing unit without making repairs to an accessory structure. Under either of these circumstances, the rehabilitation costs for accessory buildings or structures would be allowable.

Subsection (b)(3) Prohibits the use of CalHome funds for off-site improvements. The statutes state that an eligible use of loan funds is for "site development" (H&S Code, Section 50650.3(b)). The Department interprets this as site development work to improve the piece of property owned by the developer in order to make the site ready for unit construction.

Subsection (b)(4) Prohibits the use of CalHome project development loans funds for actual unit construction costs. The statute does not specifically authorize unit construction costs as an eligible use of funds (H&S Code, Section 50650.3(b). Rather it authorizes "construction period expenses" which the Department interprets to mean expenses required to hold the land during the construction period e.g., construction loan interest, utilities, property tax payments, and liability insurance.

Subsection (b)(5) Prohibits the use of CalHome funds to pay for recurring closing costs. This applies to activities where a loan is being made to a home purchaser or homeowner. Recurring costs generally include advance deposits for items such as: property taxes, homeowner's insurance; and mortgage insurance. These are all costs that a homeowner is and will be responsible for on an ongoing basis after purchasefrom loan closing forward. CalHome funds are intended to pay for purchase of the home or rehabilitation of the home. They are not intended to pay for future monthly housing costs.

Subsection (b)(6) Prohibits CalHome funds from being used to pay off a homeowner or home buyer's consumer debt, liens or judgments. CalHome funding is intended to be used for housing purposes. It is not intended to pay off other non-housing obligations potential borrowers may have such as car loans, credit cards, and tax liens. To do so, would reduce the amount of funding available to provide affordable housing and reduce the number of households the program could serve.

Subsection (b)(7) Specifies prohibited uses of funds for self-help technical assistance grants and is directly adopted from the CSHHP regulations (CCR Title 25, Section 7550(b)). The funding is meant to pay for administrative and staff cost associated with providing self-help technical assistance and not these kinds of "hard" costs.

Section: 7720. Eligible Households

Requirement or Necessity: It is necessary to specifically define the criteria a household is required to meet in order to be eligible for CalHome assistance under the CalHome eligible activities.

Documentation, Study or Report: The statutes set out the basic requirements defined in this section (H&S Code, Sections 50650(b), 50650.3(a) & (b)).

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section is sets out the provisions regarding household eligibility for assistance under any of the CalHome activities.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

To be eligible for CalHome assistance, a household must meet the requirements of all three subsections, as applicable under the activity for which the assistance is provided.

Subsection (a) Requires an assisted household to be lower-income. It requires household income to be computed according to H&S Code, Section 50079.5.

CalHome shared housing technical assistance funds are not a direct financial benefit to any homeowner or their property. Rather the intent is to assist a homeowner who otherwise might have to leave their home because they either can no longer afford the expenses or they need assistance to be able to continue living on their own. Shared housing helps the homeowner find a tenant who will share some of the expenses and/or will provide services to the homeowner such as yard care, housekeeping, cooking, and shopping. Many shared housing providers work extensively with elderly homeowners. Many of these elderly homeowners have placed one or more children on the title to their home. No improvements are being made to their property. They are merely receiving help in finding a tenant that may enable them to remain in their homes. Therefore, the Department has decided that the income of children that may be on title to the property should not disqualify these senior homeowners from receiving shared housing technical assistance under CalHome.

Subsection (b) Requires all persons on title to be the borrowers, when a CalHome loan is involved. In other words, all persons with a financial interest in the assisted property must execute the required loan documents and bear responsibility for program compliance, including repayment of the loan.

Subsection (c)(1) Requires the CalHome loan borrower or shared housing match provider to be the occupant of the property. Assistance to rental properties is not an allowable activity under CalHome statutes.
Subsection (c)(2) Requires the CalHome loan borrower on a mortgage assistance loan or as the purchaser of a home which received a self-help technical assistance award to be a first-time homebuyer and intend to occupy the property as a principal place of residence. Assistance to rental properties is not an allowable activity under CalHome statutes.

Section: 7721. Local Program Activities

Requirement or Necessity: It is necessary that applicants for funding and recipients of awards fully understand the responsibilities they are assuming in the administration of a CalHome program or development of a project. Certain responsibilities are common to all eligible activities and others are specific to an activity type. Applicants need to understand these requirements in order to avoid applying for funding for a program the applicant does not have the minimum capacity to administer. Although applicants must have experience with administration of the type of program or project for which they are they are applying, they may not be currently performing all of these functions. They need to know, before they apply, what the Department's performance expectations are upon an award of funds.

<u>Documentation, Study or Report:</u> Some of the required administrative abilities listed in this section are derived from statute requirements (H&S Code, Sections 50650, 50650.3 and 50650.4). Other requirements are based on Department experience with general program administration involving these types of activities. The Department has direct program administrative experience with many of these activities in programs such as CHRP-O, Joe Serna, Jr. Farmworker Housing Grant Program (JSJFWHG) and HOME. Administrative requirements for shared housing technical assistance were based on contact with shared housing organizations and programs of localities that currently fund shared housing organizations. The Department's previous Senior Shared Housing Program was researched as well.

<u>Alternatives Considered:</u> None.

<u>Prescribed Actions, Procedures, Technologies or Performance Standards:</u> This section establishes the minimum administrative capacity and performance standards that recipients of CalHome funding are expected to meet.

<u>Fiscal and Economic Impacts:</u> None. No adverse impacts are imposed. Some potential applicants may not have the requisite administrative capacity and/or project development capacity.

<u>Discussion:</u>

<u>Subsection (a)</u> Describes the minimum administrative duties and responsibilities that will be required of all recipients of CalHome funding.

<u>Subsection (a)(1)</u> Denotes the expectation that recipients will market the program effectively in order to expend funds in a timely manner. There are deadlines for the disbursement of funds in the Standard Agreement. The Department has had experience with slow disbursal of funds in some programs. In order to encourage and better ensure that recipients will meet the deadlines stated in Standard Agreements, this subsection requires recipients to market their local program.

In an effort to avoid frivolous applications from ineligible households, the Department is allowing recipients, at their discretion, to charge households up to a $50 application fee. To have any value as a deterrent to frivolous applications, it must be paid out of the applicant's own funds. There are early screening tools and expenses that cost recipients money, which they cannot recoup from the CalHome program if the applicant proves to be ineligible. The cost of a credit report is one such tool. Also involved, is staff time and supply costs, such as application forms and mailing expenses. Moreover, when a loan application is not funded, recipients incur costs that cannot be reimbursed by CalHome, such as the cost of ordering a credit report. An application fee can help to defray some of these costs.

<u>Subsection (a)(2)</u> The core purpose of the CalHome Program is to serve lower-income households. Therefore, regardless of the CalHome activity funded, recipients must take all necessary steps to make a determination that households to be assisted are lower-income as defined in these regulations.

Subsection (a)(3)(A-I) This merely refers the reader to other sections of the regulations for a description of administrative requirements that are specific to the activity for which the recipient receives funding.

Subsection (a)(4) Requires recipients to have the fiscal capacity to disburse funds, as needed, for mortgage assistance or owner-occupied rehabilitation loans. Recipients will have to have procedures for disbursements suited to the activity. Since recipients will be acting as lenders of funds, they will have to disburse funds on behalf of individual borrowers, just like a conventional lender. This may involve preparation of instructions to accompany disbursements to escrow accounts, progress inspections for rehabilitation payments to contractors or homeowners, etc.

Subsection (a)(5) Requires recipients to have in place accounting and record-keeping systems adequate to provide a detailed accounting of CalHome fund expenditures, tracking of deferred payment loans and ensuring CalHome repayments are deposited to be reused appropriately according to CalHome regulations. Creation and retention of accurate records by recipients is necessary to ensure the fiscal integrity of the program and to ensure that lower-income, eligible households are being assisted. Recipients must have a system for maintaining records in a complete and accessible manner that allows for fiscal and programmatic audits by the Department. CalHome funds never lose their identity as CalHome funds no matter how many times the funds are loaned and repaid. The Department has long term responsibility for ensuring that both the initial funds awarded and the reused funds are properly used and accounted for by the recipient. Good record keeping and accounting systems are essential for this purpose.

Subsection (a)(6) Requires that the recipient have the ability to track information necessary to comply with reporting the requirements of these regulations.

Subsection (a)(7) Requires recipients to be able to comply with all applicable Program regulations and all other applicable State and Federal requirements. Usually there are other State and Federal laws that are applicable to the type of activity funded. Some examples would be Federal lead-based paint mitigation requirements, non-discrimination laws, or the Americans with Disabilities Act (ADA). The purpose of this subsection is to better assure that a recipient does not overlook these requirements, and to ensure that a recipient does not underestimate program or project costs due to failure to take these additional requirements into account.

Section: 7722. Homebuyer Education Requirements

Requirement or Necessity: Homebuyer counseling or education is an allowable use of CalHome funds (H&S Code, Section 50650.3(b)). These regulations make completion of a homebuyer education class a requirement for all first-time homebuyers receiving CalHome assistance either through a mortgage assistance loan or by participating in a self-help construction project receiving a self-help technical assistance grant. The Department has determined that these regulations are necessary to ensure that homebuyer education classes paid for with CalHome funding meet minimum content requirements and to provide consistency in information received by all CalHome assisted first-time homebuyers. Applicants will be responsible for ensuring that all first-time homebuyers complete a homebuyer education class meeting these requirements. The recipients need to know up front what the Department's performance expectations are upon an award of funds.

Documentation, Study or Report: Many sources were consulted and material from these sources was reviewed: USDA-RD's Homebuyer's Educational Program, including a review of the three handbooks, participant manual, and instructor guide and instructor manual; Fannie Mae's "Guide to Homeownership"; A copy of the curriculum used by Self-Help Enterprises, a large provider of self-help housing in California; printed material from Consumer Credit Counseling Service of Sacramento Valley who receives HUD funding for this; and discussions with the Housing Authority of Fresno, who provides extensive homeownership classes, including home maintenance. Additional information was obtained from internet sources on this subject.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe required minimum requirements and components of a curriculum for homebuyer education.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Requires completion of a homebuyer education class by eligible households purchasing a home with the assistance of CalHome funding, either with direct financial assistance or indirectly through a self-help technical assistance grant. The CalHome Program will provide a grant of actual costs not to exceed the maximum amount published in the current NOFA for each household completing the homebuyer education class and purchasing a home with CalHome assistance. This is an eligible use of CalHome funds (H&S 50650.3(b)). The amount will not be included in CalHome mortgage assistance loans to homebuyers. The cost of homebuyer education for self-help owner-builder participants will be reimbursed under the recipient's self-help technical assistance grant. The Department has decided that provision of homebuyer education to every CalHome-assisted homebuyer and self-help participants is a way to help homebuyers become successful homeowners and, in the case of mortgage assistance loans, helps protect the CalHome investment. This section contains a description of the four topics that must be covered in the class. Through extensive research by the Department, these four topics were determined to be the minimum areas that must be covered to be considered adequate. Requiring all homebuyer education curricula to include these four basic topics will provide consistency across the CalHome Program. The Department has determined that review and approval of course curriculum is necessary.

Subsection (a)(1)(A) Describes an area that must be covered in homebuyer education classes. For an individual household, preparing themselves for homeownership is a critical area. The homebuyer needs to understand what characteristics they need in a home and what they can afford. If they will be using a real estate agent in their home search, they need to understand what to expect and what the real estate agent's responsibilities are. Once a home is selected, the homeowner needs to understand making a purchase offer and the negotiation process.

Subsection (a)(1)(B) Describes another area that is required to be covered in a homebuyer education class. The home financing options available to a homebuyer are numerous and often complicated. Homebuyers should be aware of what different loan products have to offer and the benefits and disadvantages of the different available loans and loan terms. Credit reports are central issues in home financing and homebuyers should have a basic understanding of the uses, interpretations, and importance of these items.

Subsection (a)(1)(C) This discusses another area that is required to be covered in the course curriculum, the actual closing of the home purchase deal and what the homebuyer's responsibilities are in the process. The homebuyer should understand the function of the escrow and/or title companies. There are a great many legal documents involved in closing a home purchase and it is important for the homebuyer to read and understand what each of these documents means. Considering the long-term effect of purchasing a home, it is especially important for homebuyers to understand the terms and conditions of the loan(s) and what are their rights and responsibilities.

Subsection (a)(1)(D) Describes the final area required to be covered in the homebuyer education class. Buying a home is a complicated process, but it is only the beginning of homeownership and the responsibilities that go with owning a home. Understanding the importance of maintaining the home in good condition and how to inspect the condition of their home are important in protecting the investment of the homebuyer. Dealing with the lenders, making payments on time, budgeting, and not overextending on credit are areas every homeowner must understand in order to avoid an unnecessary loss of a home through foreclosure.

Subsection (a)(2) Requires a certificate of successful completion to be issued to attendees of the class. A copy of these certificates will be the documentation submitted to the Department to verify that assisted households completed the required training. It serves as documentation for CalHome reimbursement to the recipient for the cost of the class.

Section: 7723. Loan Servicing Requirements.

Requirement or Necessity: CalHome statutes requires that financial assistance provided to individual households be in the form of a loan that is expected to be repaid at some point in time (H&S Code, Section 50650.3(b)). Loans must be managed or "serviced" up until they are repaid and the securing property is reconveyed or released. It is necessary that applicants for funding and recipients of awards for mortgage assistance and/or owner-occupied rehabilitation loans fully understand the loan servicing responsibilities they are expected to fulfill. Applicants need to understand these requirements in order to determine if they have the minimum capacity required to perform these responsibilities. They need to know up front what the Department's performance expectations are after a recipient has made loans to individual households.

Documentation, Study or Report: The Department services a large portfolio of loans and grants to individual households for purchase or rehabilitation. Loans to individual households have been made under programs such as CHRP-O, HOME and JSJWHG. The provisions in these regulations are based upon the Department's extensive experience in loan servicing and also upon standard industry practice for residential loans. A useful reference was the HOME Program's "Best Quality HOME Servicing Guidelines" manual, dated July 1998. These loan servicing guidelines in this publication were developed by a Department team and were reviewed by the HOME Advisory Committee made up of representatives from local government and nonprofit housing organizations.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section describes specific loan servicing procedures that must be followed to ensure that the terms and conditions of CalHome loans are complied with and to ensure that loan funds are repaid at the appropriate time.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Requires recipients to develop and employ a loan servicing plan that has been approved by the Department. CalHome recipients will be the beneficiaries of the loans funded with CalHome money. There must be a system in place to handle transactions that occur in relation to loans, to monitor compliance with the terms of the loans, and to protect the security of the loans to the greatest extent possible. Loan must be repaid at some point in time and the funds are required to be re-used for purposes allowed under the CalHome regulations. Protecting the security for the CalHome loans and collecting repayments in a timely manner will further advance the purposes of the CalHome Program by providing future funding.

Subsection (b) Requires recipients to use an organization that is in the business of servicing loans, if they plan on contracting for loan servicing with a third party. Good loan servicing practice protects the security of the CalHome loans and ensures prompt collection and crediting of repayments when they become due. The Department has determined that an experienced organization that is in the business of loan servicing best serves the Program purpose. Such a business is likely to have necessary systems, guidelines and procedures in place already and will be best prepared to service the CalHome loans.

Subsection (c) Requires an executed monitoring agreement between the Department and the recipient. The CalHome legislation requires all loan repayments to be used only for activities and purposes as allowed under the CalHome legislation (50650.3(b)). The CalHome funds awarded to recipients are always controlled by this restriction. The Department has determined that it has a fiduciary responsibility to ensure reasonable access to recipients' files, records, accounts and financial records to ensure that repayments are being collected when and as they become due, that recipient's are taking all necessary steps to protect the security for the CalHome loans, and that repayments are deposited to an account clearly identified as CalHome reuse funds.

Section: 7724. Reuse Account Requirements

Requirement or Necessity: CalHome statutes require that financial assistance provided to individual households be in the form of a loan that is expected to be repaid at some point in time (H&S Code, Section 50650.3(b)). Furthermore the statutes require repaid funds to be used for activities allowed under the statutes. They also require a recipient to have a reuse plan and for that reuse plan to be approved by the Department. It is necessary that applicants for funding and recipients of awards for mortgage assistance and/or owner-occupied rehabilitation loans fully understand the long-term requirements involved and the restrictions that are placed on use of repaid CalHome funding. Applicants need to understand these requirements in order to determine if they have the minimum capacity required to perform these responsibilities and to determine if they are willing to accept the long-term requirements imposed by the statutes. They need to know up front what the Department's performance expectations are regarding repaid CalHome funds.

Documentation, Study or Report: The Department relied upon experience with reuse of funds by local government recipients in the Department's HOME Program.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a): Requires the recipient to development and employ a Reuse Account Plan that has been approved by the Department.

Subsection (b): Requires repayments of CalHome loan principal and loan interest, if any, to be deposited to a separately maintained reuse account governed by a reuse plan approved by the Department. The CalHome statute requires this treatment of repaid funds (H&S Code, Section 50650.3(b)). The regulation specifies that the funds be deposited to a separately maintained account. A separate account is essential for accurate identification of repaid CalHome funds and for monitoring of the reuse of those funds in accordance with CalHome requirements.

Subsection (c): Requires interest earned on CalHome deposits to accrue to the CalHome reuse account and to be reused only for CalHome purposes. Often, the funds of nonprofits or localities are deposited to interest-bearing accounts. If interest is earned on the deposit of CalHome repayments, the Department has determined that this interest should rightly be credited to the CalHome reuse funds and should be used in accordance with CalHome requirements.

Subsection (d): The Department has chosen to itemize the eligible reuses of CalHome funds. In developing their reuse plans, recipients need to be clear on the eligible uses of repaid CalHome funds.

Subsection (e): Requires an executed monitoring agreement between the Department and the recipient. The CalHome legislation requires all loan repayments to be used only for activities and purposes as allowed under the CalHome legislation (50650.3(b)). The CalHome funds awarded to recipients are always controlled by this restriction. The Department has determined that it has a fiduciary responsibility to ensure reasonable access to recipients' files, records, accounts and financial records to ensure that repayments are deposited to an account clearly identified as CalHome reuse funds, and that funds from that reuse account are being spent only for eligible purposes.

Section: 7725. Maximum Homeowner/Homebuyer Loan Amounts

Requirement or Necessity: The CalHome legislation requires the Department to set loan limits (H&S Code, Section 50650.7). The Department has determined that the CalHome Program should try to serve as many low-income households as feasible. Placing a maximum on the amount of loan that individual households can receive assists the Department in achieving this goal.

Documentation, Study or Report: There are many other government programs that place a maximum on the amount of loan they will provide or insure. The most prevalent example of this is HUD's FHA- loan insurance program. CalHFA also sets limits in certain homeownership lending programs either by percentage or dollar amount.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Maximum loan amounts will be established by the Department in the current NOFA. The desirable maximum loan amounts can be influenced by many factors that are not within the Department's control. Some of these factors are, the amount of funding allocation the Department receives, changing income limits, changing home prices, changing development and land costs, and changing costs for rehabilitation work. These factors and more can all influence the Department's decision on maximum loan limits. The Department has determined that it is important to have flexibility to establish maximum loan amounts in the NOFA rather than state a specific amount in the regulations, which may prove infeasible in a short period of time.

In addition, the Department is directed by statute to ensure a reasonable geographic distribution of funds (H&S Code, Section 50650.4). The maximum loan amount established by the Department affects its ability to achieve this goal. In trying to achieve this goal, an important factor is the amount of allocated funds the Program receives or the amount of unawarded funds the program has available to offer in any one NOFA.

Establishing maximum loan amounts and/or application amounts in a NOFA is consistent with other Department programs, such as, MHP and MPROP.

Subsection (a)(1) Despite the maximum amount of any mortgage assistance loans allowed under the NOFA, the loan amount is further limited by how much financial assistance a homebuyer actually needs to achieve an affordable housing cost. This prevents the lending of the maximum NOFA loan amount to every homebuyer without considering actual financial need. How much subsidy a particular homebuyer needs to have an affordable housing cost is defined in Section 7716 (a).

Essentially, the recipient is limited to the lesser of the amount of mortgage assistance the homebuyer needs up to the maximum amount as established in the NOFA. This will prevent unneeded funds from going to a homebuyer that could be used to assist another household. To consistently over-subsidize homebuyers can add up to a substantial amount of funding that could have been used to help other low-income homebuyers.

If a particular homebuyer needs more mortgage assistance than allowed under the NOFA and the recipient still wishes to fund that homebuyer, the Department has determined that the recipient will need to seek out additional sources of subsidy financing for these homebuyers. Possible other sources available could be the HOME Program, Community Development Block Grants (CDBG), Redevelopment Agency (RDA) funds, some CalHFA programs, or the Federal Home Loan Bank-Affordable Housing Program. One of the goals stated in the CalHome legislation is to support existing homeownership programs (H&S Code, Section 50650(c)). Combining CalHome funding with other subsidy funding sources, allows recipients to either assist more households, provide deeper subsidies, or both. In high cost areas, deeper subsidies are often the only way to assist low-income households to purchase a home.

Subsection (a)(2) For owner-occupied rehabilitation loans, the loan cannot be for more than is required to pay for CalHome eligible and necessary rehabilitation costs or the NOFA limit, whichever is lower.

In cases where rehabilitation costs are higher than the maximum stated in the NOFA, the Department has determined that the recipient will need to seek out additional sources of subsidy financing. Again, there are other possible sources for this type of financing such as, HOME, CDBG, or RDA funds.

One of the goals stated in the CalHome legislation is to support existing homeownership programs (H&S Code, Section 50650(c)). Combining CalHome funding with other subsidy funding sources, allows recipients to either assist more households, or to provide more funding to assist households that require substantial rehabilitation due to greater deterioration of their home, or both.

Section: 7726. Homeowner/Homebuyer Loan Terms

Requirement or Necessity: The CalHome legislation requires the Department to set the terms of CalHome loans (H&S Code, Section 50650.7). Establishing loan terms also provides for consistency across the Program and from borrower to borrower.

Documentation, Study or Report: In the lending industry, either private or government, funding sources establish the terms for the loans being funded. This is true for such programs as the JSJFWHG Program, USDA-RD 502 mortgages, HUD-FHA loan insurance program, Fannie Mae, Freddie Mac, the HOME Program, and the CHRP-O Program. The Department relied upon a review of the terms of these financing sources and upon the Department's extensive experience in financing homeownership loans, both for home purchase and for home rehabilitation.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: Recipients awarded CalHome funds can only fund loans that meet the terms and conditions stated in these regulations.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a): It is standard industry practice in the housing finance business to require that the property being financed be pledged as security for the loan. In other words, if the borrower fails to pay the loan back according to the terms of the promissory note, the lender may sell the property to recoup their loan amount. Recording some form of lien on the property being financed does this.

Subsection (b): The CalHome funds loaned to the homebuyer are secured by the value of the property. This type of security is particularly important for a loan that has no payments until the maturity date of the loan and may have interest accruing.

Subsection (c)(1) CalHome statutes require that loans to individual households must be deferred. In the absence of any intervening events that would require loan repayment, the CalHome loan amount must be repaid at the loan maturity date (Section 7726(5)) and H&S Code, Section 50650.3).

Subsection (c)(2) Certain events would require repayment of the CalHome loan prior to the loan maturity date. The accelerating events listed here are mandated by the CalHome legislation (H&S Code, Section 50650.3).

Subsection (c)(3) Transfers of interest in and/or title on (with the exception of transfers as allowed in subsection (c)(4)) the CalHome financed property require repayment of the CalHome loan, thus making the loans non-assumable.

Subsection (c)(4)(A and Bi-iii) State law prohibits any lender from accelerating the maturity date of a loan secured by residential property due to these specific types of transfers of interest (Civil Code, Section 2924.6(a)).

Subsection (c)(5) Homebuyers are required to obtain first mortgage financing with a term of thirty years, an exception is made for the United State Department of Agriculture-Rural Housing Service (USDA-RD) 502 mortgage loan program. The 502 mortgage loan program is a valuable source of first mortgage financing for lower-income homebuyers in rural areas of California. In particular, this program provides very low interest rate first mortgages to participants in self-help housing programs. The Department has a long history of providing second mortgage financing subordinate to 502 first mortgages in such programs as the JSJWHG Program and the HOME Program. The Department has determined that allowing a longer CalHome loan term when the USDA-RHS 502 Program is providing the first mortgage financing is an important exception to make to the usual thirty-year loan term. It will allow CalHome Program funds to work with this important source of financing for lower-income families in rural areas of the State. By statute, CalHome loans must defer all payments until the loan maturity date unless a loan-accelerating event occurs (H&S Code, Section 50650.3(b)). The Department has determined that the CalHome loan maturity date should coincide with the term of the first mortgage loan. At that point in time, the first mortgage loan would be completely paid off and the borrower would be able to obtain new first mortgage financing to repay the CalHome loan. If the CalHome loan had a balloon payment due before the first mortgage loan was paid in full, the borrower would have to obtain a new second-lien position loan to repay the CalHome loan. In the private lending industry, loans that cannot be in first lien position have higher interest rates than first mortgage financing. The Department has determined that it is the best interests of the homeowner and best serves the intent of the Program, to allow the homeowner to pay off the first completely, before having to obtain a new loan on the private market loan to pay off their CalHome.

Subsection (c)(6) In instances where the CalHome loan will not have to be secured in a lien position subordinate to any other loan, the Department is requiring the CalHome rehabilitation loan term to be 30 years.

A borrower would likely have difficulty in finding favorable terms on a new loan to make a balloon payment on a CalHome loan, when that new loan will not be able to be secured on the property in higher than second lien position. Almost certainly, if the borrower was able to refinance such a balloon, the interest rate on these types of subordinate loans tend to be high and monthly payments would be required, which were not required under the terms of the CalHome loan. This could put the homeowner in financial difficulty or even lead to default or foreclosure. By allowing the senior financing to be repaid before the CalHome loan becomes payable, the new loan needed to pay off the CalHome loan will be able to be secured in a senior lien position at more favorable interest rates.

Subsection (c)(7) The statute requires the CalHome loans to defer payments (H&S Code, Section 50650.3(b)). Therefore, recipients may not require any payments on the loan until the maturity date of the loan or upon the occurrence of a loan-accelerating event. However, the Department has determined that CalHome borrowers should be permitted to make voluntary payments on their loan without being financially penalized. Some private, commercial lenders penalize a borrower for repaying a loan early. Since most lenders' loans are amortized, when a loan is paid off, they are losing an income stream. This is not true for CalHome recipients as lenders. In fact, any early repayments received from a borrower can be loaned to another eligible household sooner than would have been possible under the terms of the loan.

Subsection (d) The Department allows recipients to charge up to 3% simple interest per annum on CalHome loans to individual households. The value of a dollar loaned today will be about $0.41 in 30 years, assuming 3% inflation per year. Allowing 5% of all repayments to pay for the costs of loan servicing (Section 7724(c)(4)) also depletes the funds available to loan again for CalHome eligible loans. Allowing recipients to charge interest on the loan helps them to recapture a portion of that lost value and helps to cover loan-servicing costs. Charging of interest is allowed under these regulations, but is not required. A recipient may determine that for certain borrowers or types of loans a lower or no interest rate is more beneficial to the assisted household. In addition, a recipient may choose to charge up to 3% interest and then is allowed to establish conditions in the loan whereby some or all of the interest can be forgiven. Since neither the legislation, nor the regulations requires recipients to charge loan interest, they are free to forgive interest. By legislation they may not forgive the loan principal (H&S Code, Section 50650.3(b)).

Although the Department is allowing recipients to charge interest on the CalHome loans, the Department has elected to place a 3% cap on the interest rate. The rate is also a simple interest rate, rather than compounded annually. The homeowner may have interest accruing for as many as thirty years on the CalHome loan. A limit on the amount of that accruing interest minimizes the possibility of negative equity occurring, primarily in the early years. Also, the CalHome borrower will have to refinance the CalHome loan, due at the end of the term. The Department has determined that borrowers should not have a large amount to refinance because of an unduly large amount of accrued interest on the CalHome loan. A 3% interest rate is also typical in the Department's other programs.

Subsection (e): Prohibits recipients from placing shared appreciation, resale restrictions and other similar restriction or terms. The placing of these restrictions limits the borrower's ability to sell his or her home. The CalHome legislation requires repayments of CalHome loans to be deposited to a reuse account (Section 7724) and used to further the low-income homeownership goals of the CalHome Program. In addition, the Department requires recipients to deposit to the reuse account, any interest charged on the loans pursuant to Section 7724 (b). The legislation does not require the unit to remain affordable in perpetuity by imposing resale restrictions. Instead it requires repayment and reuse of funds to further affordability goals.

Section: 7727. Homeowner/Homebuyer Loan-to-Value Limits

Requirement or Necessity: The CalHome legislation requires the Department to set the terms of CalHome loans (H&S Code, Section 50650.7). Establishing loan terms also provides for consistency across the Program and from borrower to borrower. Establishing loan-to-value ratios is a prudent lending practice to provide reasonable security for the repayment of the CalHome loan

Documentation, Study or Report: In the lending industry, either private or government, funding sources generally establish loan-to-value ratios. This is true in such programs as the JSJWHG Program, USDA-RD 502 mortgages, HUD-FHA loan insurance program, Fannie Mae, Freddie Mac, and the HOME Program.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: Recipients awarded CalHome funds to lend to individual households can only fund loans that meet the loan-to-value ratios stated in these regulations.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a): Virtually every housing lender, public or private, sets a limit on the ratio of total loans secured by a property as compared to the appraised value of that property. Primarily, this is for the security of the lender's loan. If a borrower fails to repay the loan, the lender's sole recourse to recover loan funds is to foreclose on the borrower and sell the property. Therefore, lenders do not want to loan much more than the property is worth in the majority of cases. In fact, private lenders would prefer that the homebuyer have some equity from the start by providing cash for a portion of the purchase price.

The main purpose of the CalHome Program is to provide downpayment assistance, because low-income borrowers often have little or no cash resources available. However, it is only prudent as a government lender and beneficial to the homebuyer to set some limit on the total LTV ratio.

The maximum LTV ratio established by these regulations is 105% (100% of the sales price, plus actual closing costs up to a maximum of 5% of the sales price). This ratio is generally sufficient to allow financing of not only the purchase of the home at no more than appraised value, plus allowable closing costs. HUD FHA-insured loans may have a LTV ratio that is 100% of the cost to acquire the home. Their definition of "cost to acquire" is the purchase price, plus allowable borrower paid closing costs. As another example, Freddie Mac affordable lending programs allow a total LTV ratio of 105%. Therefore the LTV ratio for mortgage assistance established in these regulations is consistent with general industry practice.

Subsection (b): The total LTV ratio for owner-occupied rehabilitation loans established in these regulations is 105% of the after-rehabilitation valuation.

Section: 7728 Eligibility Requirements

Requirement or Necessity: It is necessary for a public program that awards public funds for public purposes to define the requirements that applicants must meet in order to establish capacity to administer a specific type of housing program for which grant funding is requested.

Documentation, Study or Report: The CalHome statues identify a basic list of the types of entities eligible to apply for CalHome funds (H&S Code, Sections 50650 © and 50650.3). The statues also require eligible entities to demonstrate sufficient organizational stability and capacity to carry out the activity for which they are requesting funds (H&S Code, Section 50670.4).The CalHome statutes identify the types of eligible activities to be supported and whether the funding will be awarded as a grant or a loan from the Department to the recipient (H&S Code, Section 50650.3).

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: The regulations identify a performance standard that nonprofit housing organizations receiving funding must be actively involved in the development of new housing or the rehabilitation of owner-occupied housing or the provision of required technical assistance, rather than solely acting as a third party funding source. These provisions describe the minimum capacities a recipient must have in order to meet the Mortgage Assistance Program requirements.

Fiscal and Economic Impacts: No adverse impacts are imposed.

Discussion:

Applicants applying to operate a specific type of program must demonstrate capacity by providing evidence of the operation of such a program in at least two of the four years immediately proceeding the date of application. As established by the requirements of Section 7717; the applicant has been operating as a housing program administrator for at least the preceding four years. The applicant must provide evidence of the ability or capacity to successfully administer the specific type of program or project for which the applicant is applying. Success is measured by the actual production of affordable housing units. For the Mortgage Assistance Program activity, two years of the last four years was selected as the minimum number of years required. The Department's experience is that some applicants may not operate a mortgage assistance program every year. For example, some applicants operate a mortgage assistance program one year and operate an owner-occupied rehabilitation program during the next year.

Section: 7729. Eligible Costs

Requirement or Necessity: Having defined eligible applicants and the types of eligible activities, it is necessary to define the specific costs for which CalHome funds may be expended. The provisions are intended to maximize the use of funds, assist the greatest number of households and avoid paying for unnecessary or excessive costs.

Documentation, Study or Report: The CalHome statutes itemize certain uses of funding (H&S Code, Section 50650.3 and 50650.5). The provisions are based on Department experience with other programs, specifically, CHRP-O, JSJWHG, CSSHP and HOME.

Alternative Considered: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Describes the various eligible costs that may be paid for with mortgage assistance grant funds. Except where noted, CalHome funds expended for these purposes are included in the amount of the loan to the eligible homebuyer.

Subsection (a) (1-2) This describes the eligible use of mortgage assistance funds, which is to provide a permanent financing loan to an eligible household. To ensure expeditious use of this assistance, the regulations require the dwelling unit purchased to be ready for occupancy.

There are two exceptions to the ready for occupancy requirement:

An exception to this requirement is made for properties acquired with a permanent financing loan that includes rehabilitation funding. An example of this would be homes purchased with an FHA-insured 203(k) loan. The loan finances not only purchase of home, but also rehabilitation costs. The home must be ready to occupy within a specified time frame (maximum is 6 months).

The other exception to this requirement is for self-help homes purchased with first mortgage financing from the USDA RD 502 self-help program. Under the 502 self-help program, all permanent financing closes escrow when the household purchases the ready-to-build lot. Without this exception, CalHome could not help finance homes build under this major source of federal funding aimed at lower-income households committed to building their own homes.

Subsection (b) Allows grant funds to be used to provide homebuyer education. Homebuyer counseling is a use of funds authorized by the CalHome statutes (H&S Code, Section 50650.3 (b)). The Department has determined that it is logical and beneficial to fund this use in conjunction with funds awarded to provide mortgage assistance to first-time homebuyers. The cost of the homebuyer education is a grant to the recipient and is not included in the loan amount to the homebuyer.

Subsection (c) Allows grant funds to be used to pay for non-recurring loan closing costs. Getting a first mortgage lien from a first mortgage lender costs money. There are one-time charges associated with getting which can include loan origination fees, escrow fees, and appraisal fees. These fees can amount to approximately 3% to 6% of the loan amount. CalHome funds can be used to pay for these one-time (non-recurring) costs.

Subsection (d) Allows grant funds to be used for CalHome loan processing costs. Mortgage lenders typically charge a fee to cover basic costs associated with processing a loan, such as the costs of underwriting the loan and preparing the loan documents. Mortgage lenders include these costs in the amount of the loan to the borrower. The Department has allowed these types of loan costs to be paid with CalHome funds, but in the form of a grant to the recipient that will not be included in the amount of the CalHome borrower's loan. The basic allowable fee per mortgage assistance loan will be published in the current NOFA.

Section: 7730. Local Program Administration Responsibilities.

Requirement or Necessity: It is necessary that applicants for funding and recipients of awards fully understand the responsibilities they are expected to perform in the administration of a CalHome mortgage assistance program. Applicants need to understand these requirements in order to determine if they have the minimum capacity required to administer a mortgage assistance program. Although applicants must have experience in administration of the type of program they are applying for, they may not be currently performing all of these functions. They need to know up front what the Department's performance expectations are upon an award of funds.

Documentation, Study or Report: The Department has extensive experience with provision of deferred payment mortgage assistance subsidies and the processes involved in closing this type of loan. Programs in which the Department has been responsible for administering such assistance including programs such as JSJWHG, HOME and CSHHP mortgage assistance.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to: meet various programmatic requirements; to ensure that homes meet a standard of affordability; ensure that CalHome funds are effectively used to assist the greatest number of households possible consistent with affordability.

Fiscal and Economic Impacts: None. No adverse impacts are imposed. Some potential applicants may not have they requisite administrative capacity.

Discussion:

Subsection (a) I Recipients are expected to guide prospective homeowners through the process of obtaining the required first mortgage financing. Recipients are expected to help the households qualify for the maximum first mortgage loan they can obtain, consistent with affordability requirements discussed in the Mortgage Assistance Underwriting, Section 7731. To over subsidize a household means reducing the number of households that can be assisted overall. To under subsidize a household, defeats the program purpose of making homeownership affordable and puts the household in a financially risky position.

Subsection (b) Recipients are required to review and understand property appraisals for single-family homes. Since the Program has a value limit (Section 7731(b) (3)), the recipient must ensure that the home to be purchased does not exceed this limit.

Subsection (c) Requires recipients to have the technical expertise to either inspect properties themselves to ensure the homes meet the minimum housing standards of State Housing Law (H&S Code, Section 17910) or to have the experience to read and understand residential appraisal reports, including the valuation section that indicates deficiencies in the dwelling unit that prevent it from meeting State Housing Law requirements. This is to avoid financing the purchase of homes that have substandard conditions requiring repair or rehabilitation work the new homeowner will not have the funds to remedy. The exception would be a mortgage assistance loan on a property where rehabilitation work costs have been determined and the borrower is receiving first mortgage financing that would cover both the acquisition and rehabilitation of the property.

Subsection (d) Requires the recipient to ensure that every CalHome assisted borrower has completed a homebuyer education course that meets the Program standards described in Section 7722 of these regulations. The legislation authorized the expenditure of CalHome grant funds for homebuyer counseling or education (H&S Code, Section 50650.6(b)). The Department is requiring provision of homebuyer education to every CalHome assisted homebuyer as a way to help borrowers be successful homeowners and helps protect the CalHome investment.

Subsection (e) Requires the recipient to have the ability to underwrite and close the CalHome loans.

Section: 7731. Mortgage Assistance Underwriting Requirements

Requirement or Necessity: The statutory goal of CalHome funding is to make home purchase affordable to lower-income households. This section describes what "affordability" means in terms of homeownership. Other underwriting requirements are intended to increase the chance of successful homeownership and thereby reduce the possibility of defaults or foreclosures, which could result in the loss of CalHome funds. As CalHome loans will be recorded on properties in second lien position, behind a first mortgage deed of trust, it is especially important to follow sound lending practices. Repaid funds will be used to further the homeownership goals of the CalHome Program. Finally, the requirements are to ensure that assisted households receive the full benefits of homeownership, including the financial benefits

Documentation, Study or Report: The regulations are based on the Department's experience in underwriting deferred homeownership loans or grants in other programs such as JSJFWHG and HOME. Also, underwriting standards of various first mortgage lenders were researched and had significant impact on the development of these standards. This includes FHA-insured loan underwriting; Fannie Mae and Freddie Mac loan underwriting, CHFA loan underwriting, and USDA-RD 502 loan underwriting.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: In underwriting CalHome mortgage assistance loans, this section describes specific underwriting procedures and formulas that must be followed to ensure affordability and sound lending practices.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Required recipient to develop and employ Mortgage Assistance Program Underwriting Guidelines that have been approved by the Department.

Subsection (a) (1) The use of underwriting housing debt ratios is standard practice for the residential lending industry. The front-end ratio (housing debt ratio), along with the back-end ratio (total debt ratio), shall be regulated by the recipient. The recipient underwriting guidelines will provide the debt ratios that will be used in the underwriting of the CalHome loan in order to determine the amount of subsidy the homebuyer needs in order to have affordable housing costs. Without establishing a definition of "affordable", the program would be without any guidance in determining the appropriate amount of subsidy to provide a homebuyer. The definition is designed to ensure that families are neither under- nor over-subsidized and ensure an effective and efficient use of program funds. This will allow recipients some flexibility in meeting the needs of their market area and individual homebuyers.

Subsection (a) (2) The recipient underwriting guidelines will provide their program's credit requirements. The reviewing of a potential borrower's credit history is standard practice in the residential lending industry. The purpose of a review of the credit history is to gauge the willingness and ability of the potential borrows to repay their debts. A primary goal of underwriting is to ensure, as far as possible, that the borrower will have the ability to make required payments on the debts they are acquiring. It is the fiduciary responsibility of the recipient to make an educated and informed judgment regarding the borrower's willingness to make payments on the senior financing and to eventually repay the government funds that have been loaned to them.

Subsection (a) (3) Establishes the requirements for the first mortgage financing.

Subsection (a) (3) (A) All homebuyers are required to obtain financing from a first mortgage lender. The CalHome loan is only meant to fill the affordability gap by reducing the amount of the required first mortgage. As the CalHome mortgage assistance is in the less financially secured lien position, the Department wants to ensure that the first lender's mortgage has terms and interest rates that will enhance the security of the CalHome loan.

The standard industry length of term for first mortgages is 30 years (15 or 20 for financing a manufactured home not secured to a permanent foundation) and the typical first-time homebuyer at any income level generally finances a home purchase with a 30 year first mortgage lien. The Department has determined that funding should be used to make a 30 year payment affordable. At the same mortgage amount, a shorter term would require higher monthly payments than the 30 year loan. A higher CalHome mortgage assistance amount would be required to reduce the monthly payment to an affordable amount, resulting in fewer households assisted.

The first mortgage loan interest rate is required to be consistent with current market interest rates for the type of property being financed. Higher interest rates on a loan means a borrower will qualify for a smaller first mortgage amount. Generally speaking, higher than market interest rates are imposed by lenders when they consider the borrower to be a higher than average risk.

The mortgage assistance being provided under CalHome will make monthly payments on the first mortgage affordable to the households and will also reduce the loan-to-value ratio for the first mortgage lender. Furthermore, CalHome requires a good credit history on loan candidates, meaning they should qualify for a competitive interest rate on the first mortgage. It is noted here that the market interest rate is not solely dependent on the borrower, but is affected by the type of property being financed as well. Financing for manufactured housing units will normally have a higher market interest rate than conventionally built, detached homes. This is acceptable as long as that interest rate is consistent with the current market interest rate for the type of property.

Average current market interest rates can be tracked by the Department or any recipient on a daily, weekly, or monthly basis through many readily available sources, the easiest being internet sites or financial sections of local newspapers.

Subsection (a) (3) (B) The Department requires that the first mortgage loan does not include provisions for negative amortization. This occurs when the monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan.

Subsection (a) (4) Establishes the requirements for any financing that will be in a lien position subordinate to the CalHome loan. The department has determined that it is necessary that the terms and conditions of funding subordinate to the CalHome loan not be in conflict with the provisions, terms or intent of the CalHome Program. Nor should such terms and conditions affect the security of the CalHome loan or impose additional loan servicing burdens on the CalHome recipient. Also, the Department has placed some restrictions on subordinate lender charges to the borrower. All of these requirements arise out of the Department's considerable experience with its own portfolio of deferred loans and grants. Many other senior lenders also require review and approval of the terms and conditions of subordinate loans or grants such as, HUD FHA insurance program and CalHFA.

Subsection (a) (4) (A) Sets a limit on the amount of interest that may be charged on the deferred loan and requires interest payments to be deferred for the term of the loan. The CalHome loan cannot bear an interest rate above three percent simple interest per annum (Section 7726(d)). The Department has determined that to allow higher interest rate on subordinate financing is not in the best interest of the homebuyer. The homebuyer may have interest accruing for thirty years on both the CalHome loan and a subordinate financing loan(s). A limit on the amount of that accruing interest minimizes the possibility of negative equity occurring, primarily in the early years. Also, the CalHome borrower will have to refinance the CalHome loan and subordinate financing, both due at the end of the term. The Department has determined that borrowers should not have a large amount to refinance because of an unduly large amount of accrued interest on the subordinate financing.

Subsection (a) (4) (B) Allows subordinate lenders to charge fees that are consistent with current practices in the mortgage industry.

Subsection (a) (4) (C) Prohibits subordinate lenders from requiring a balloon payment that is due prior to the end of the term of the CalHome loan. There are two reasons for this prohibition.

First, the Department has determined that no subordinate lender should receive a payoff of their loan until the CalHome loan, which is in a senior line position, has been paid off. When CalHome loans are repaid, the funds are required to be repaid to a reuse account to further the homeownership goals of the CalHome Program.

Second, the borrower may have difficulty in finding a lender willing to provide a new loan to make the balloon payment when that new loan will not be able to be secured on the property in higher than third position. Almost certainly, if the borrower was able to refinance such a balloon, the interest rate on such subordinate loans tend to be high an monthly payments would be required, which were not previously required. This could put the homeowner in financial difficulty or even lead to default or foreclosure. In the event of a default, some or the entire CalHome loan amount would likely be lost.

<u>Subsection (a) (4) (D)</u> Requires all subordinate lenders to defer all principal and interest payments for the term of the CalHome loan. If a lender subordinate to the CalHome required payments on their loan, it would increase the back-end ratio to the homebuyer. Consequently, this would require even more subsidy funding to reduce the back-end ratio to an affordable level. The intent of the CalHome Program is to write down the amount of first mortgage financing required by a low-income homebuyer and thereby reduce the back-end ratio to an affordable level. The Department has determined that CalHome funding to a homebuyer should not have to be increase for the purpose of allowing a subordinate lender to receive payments on their loan.

<u>Subsection (a) (4) (E)</u> Prohibits the subordinate lender from limiting the sales price at which the borrower/homeowner may list and/or sell their home. Some housing program providers limit the sales price at which the owners they have assisted with subordinate financing may sell their homes. Their purpose in imposing these restrictions is usually to guarantee the home remains affordable to the next low-income homebuyer when it is placed on the market. The Department believes one of the important values homeownership provides to all homeowners is their opportunity to build equity, and therefore family assets, through homeownership. The amount of that equity is determined by many factors, but most directly by the appreciation of housing values in a given market. The homeowners should have access to that appreciation when they choose to sell their home. By limiting the sales price, the assisted low-income homeowners may not be able to afford to purchase another home in the same market due to increased home prices. The Department believes this restriction on the homeowner's right to sell at fair market value places an unreasonable limitation on the homeowner's rights of homeownership, and is therefore not allowed on any financing subordinate to the CalHome Program loan.

<u>Subsection (a) (4) (F) (i – iii)</u> The Department allows subordinate lenders to share in the equity gains in the value of a home which they have assisted with subordinate financing. This model of shared equity is the same used by HUD/FHA and CalHFA for subordinate financing behind their first mortgage loans. The share the subordinate lender may take of the appreciation in sales price is very specifically defined. The regulations describe the manner in which the maximum share shall be calculated. Subsection (a)(4)(F)(i) defines gross appreciation. Subsection (a)(4)(F)(ii) describes the calculation used to arrive at net appreciation. This includes several amounts to be subtracted from gross appreciation, including; seller's closing costs, seller's cash in the original purchase transaction, the value of capital improvements made by the seller, and in the case of a

self-help housing project, the value of the seller's original sweat-equity, to arrive at net appreciation. The maximum share of the net appreciation which may go to the subordinate lender is equal to one-half of the pro-rata share that their original subordinate loan was of the total purchase transaction. This is described in Subsection (a)(4)(F)(iii). This limitation of shared equity is based on an Internal Revenue Service ruling, Revenue Ruling 83-51, which limits appreciation share. The IRS rules that if the owner does not have the rights to the major share of the appreciation in their home (as defined above), the arrangement does not pass the test of homeownership, and the owner would therefore not qualify for the homeownership deduction on federal income tax. The Department believes this is a vital distinction, and an important right which should reside with the CalHome Program borrower, and therefore only allows shared equity in financing subordinate to the CalHome Program loan which follows this model.

Subsection (b) This contains the property appraisal requirements of the Program. The regulations establish a value limit for home purchases (Section 7749(a)) and a loan-to-value ratio (Section 7727(a)), which are based on home values determined by property appraisals.

Subsection (b) (1) The Department has determined that a qualified person should prepare this appraisal. Possession of a current State appraiser's license, issued by the California Office of Real Estate Appraiser, determines who is qualified to perform the appraisals. Furthermore, the appraiser must be qualified to appraise residential properties.

Subsection (b)(2) The Department has determined that of the available methods the comparable sales approach to determining value is the most frequently used, most accurate and reliable method for appraising residential properties.

Subsection (b) (3) Limits the appraised value of the property that may be purchased by an assisted household. The intent is to have CalHome borrowers purchase a home with the least amount of government subsidy necessary to make a home (in a particular geographic area) affordable. The housing market changes rapidly and often unpredictably. The Department needs the ability to respond to these changing market conditions and in particular to the needs of high costs areas, however that can be documented.

Subsection (d) Requires CalHome recipients to obtain title insurance for the CalHome loan. This is standard industry practice for residential lenders as a protection against possible title problems not identified by the title company prior to the securing of a CalHome lien on property.

Subsection (e)(1-2) Denotes that CalHome recipients must require homebuyers to purchase and maintain fire and casualty insurance on property purchased with CalHome funds, including flood insurance where required. This is standard industry practice for residential lenders as a protection against possible loss of loan security and actual loan funds due to fire, accidents, floods and other hazards. The insurance must be maintained in an amount equal to the value of the improvements (excludes the land) in the event there is a total loss. To be covered under the homeowner's insurance the recipients, as lenders, must ensure they are listed on the policy as an additional loss payee.

Section: 7732. Eligibility Requirements

Requirement or Necessity: It is necessary for a public program that awards public funds for public purposes to define the entities that are eligible to apply for and receive these funds. The provisions are based on the Department's experience with similar programs and are intended to ensure to the maximum degree possible that applicants have the appropriate structure, capabilities, and experience to utilize Program funds in a timely manner for maximum benefit to lower-income households.

Documentation, Study or Report: The CalHome statutes identify a basic list of the types of entities eligible to apply for CalHome funds (H&S Code, Sections 50650(c) and 50650.3). The statutes also require eligible entities to demonstrate sufficient organization stability and capacity to carry out the activity for which they are requesting funds (H&S Code, Section 50650.4). The statute further states that the purpose of the CalHome Program is to support existing homeownership programs (H&S Code, Section 50650(c)) aimed at lower-and very low-income households, indicating the experience is required of applicants, as is current or recent operation of the type of program or development of the type of project for which the applicant is requesting CalHome funding.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section establishes an implied performance standard that applicants must be judged to have a sufficient level of experience and administrative capabilities in order to successfully administer and complete the type of program for which they are applying.

Fiscal and Economic Impact: No Adverse impacts are imposed.

Discussion:

As established by the requirements of Section 7717, the applicant needs to have been operating as a housing program administrator for at least the preceding four years. The applicant must provide evidence of the ability or capacity to successfully administer the specific type of program for which the applicant is applying. Success is measured by the actual production of affordable housing units. For Program activities, two years of the last four years was selected as the minimum number of years required. The Department's experience is that some applicants may not operate a particular program activity every. For example, some applicants operate a homebuyer program one year and operate an owner-occupied rehabilitation program during the next year. The Department did not what to eliminate worthy applicants by requiring operation of a specific type of program activity every year.
Section: 7733. Eligible Costs.

Requirement or Necessity: Having defined eligible applicants and the types of eligible activities, it is necessary to define the specific costs for which CalHome funds may be expended. The provisions are intended to maximize the use of funds, assist the greatest number of households and avoid paying for unnecessary or excessive costs.

Documentation, Study or Report: The CalHome Statues itemize certain uses of funding (H&S Code, Section 50560.3 and 50650.5). The provisions are based on Department experience with other programs, specifically, CHRP-O, JSJWHG, CSSHP and HOME.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impact: None. No adverse impacts are imposed.

Discussion:

Describes the various eligible costs that may be paid for with owner-occupied rehabilitation grant funds. Except where noted, CalHome funds expended for these purposes are included in the amount of the loan to the eligible homeowner. The eligible uses of funds have been adopted from the CHRP-O program (CCR Title 25, Section 8044) with some minor modifications.

Subsection (a) This slows funds to pay for the actual rehabilitation costs as defined in Section 7716(kk). Basically, this includes costs to repair items causing a property to be substandard.

Subsection (b) Allows for payment of building permit or other government fees Homeowners are required to obtain any necessary permits for proposed rehabilitation work and to pay any other government fees associated with the work.

Subsection (c) Allows for payment of fees for consultant services that may be required to complete the rehabilitation work. For example, if there is a drainage or foundation problem, the services of and engineer may be required to ensure that the proposed work will, in fact, correct the problem.

Subsection (d) Allows for payment of non-recurring loan closing costs. Although there are not as many loan closing costs associated with a rehabilitation loan, as with the purchase of a home, there are still third party costs that the homeowner may not have the funds to cover. Such costs are likely to include appraisal fees, title insurance, and document recording fees. The Department would not want to turn away a low-income homeowner needing correction substandard conditions merely because the homeowner had no resources to pay loan closing costs.

Subsection (e) Allows for the replacement of a manufactured home not on a permanent foundation (up to the maximum amount published in the current NOFA) when the recipient has determined that to repair the substandard manufactured home would not be beneficial to the homeowner. The Department feels that by replacing the substandard manufacture that is too costly to rehabilitate, with a replacement unit, will be of much more benefit to the homeowner.

Subsection (f) Allows for payment of an activity delivery fee not to exceed the maximum amount published in the current NOFA. This amount is payable to the recipient in the form of a grant and the amount is not included in the borrower's loan amount. The fee is to defray such costs as: adequate inspections to ensure that work write-ups for contractor bid purposes are professionally done and accurately reflect required rehabilitation work; overseeing the bid process and ensuring that only qualified contractors are selected; inspecting completed work for deficiencies; or arranging for qualified architectural or engineering work as may be required.

Section: 7734. Local Program Administration Requirement.

Requirement or Necessity: It is necessary that applicants for funding and recipients of awards fully understand the responsibilities they are expected to perform in the administration of a CalHome owner-occupied rehabilitation program. Applicants need to understand these requirements in order to determine if they have the minimum capacity required to administer an owner-occupied rehabilitation program. Although applicants must have experience in administration of the type of program they are applying for, they may not be currently performing all of these functions. They need to know up front what the Department's performance expectations are upon an award of funds.

Documentation, Study or Report: The Department has previous experience with provision of deferred payment owner-occupied rehabilitation subsidies and the processes involved in closing this type of loan. Programs in which the Department has been responsible for administering such assistance including programs such as the California Disaster Assistance Program for homeowners (CALDAP-O), CHRP-O and HOME.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to: meet various programmatic requirements; to ensure that proposed rehabilitation work is CalHome eligible; ensure that all work is completed in a competent and professional manner; and ensure that the rehabilitation work performed is at a reasonable cost so as to maximize the use of funds.

Fiscal and Economic Impacts: None. No adverse impacts are imposed. Some potential applicants may not have the requisite administrative capacity.

Discussion:

Subsection (a) requires the recipient to have the ability to review and understand property appraisals for single-family homes. Since the Program has a value limit the recipient must ensure that the after-rehabilitation value of assisted properties does not exceed this limit (Section 7735 (b)),.

Subsection (b) requires the recipient to have the ability to underwrite and close the CalHome loans. The steps outlined here are the basic abilities required, all of which are discussed in more detail in the Owner-Occupied Rehabilitation Underwriting Section 7735.

Subsection (c) Refers the reader to Section 7735 (a) for the specific completion requirements of owner-occupied rehabilitation construction.

Section: 7735. Underwriting and Construction Requirements.

Requirement or Necessity: A statutory intent of the CalHome Program is to provide assistance to low-income households that are already homeowners, but lack the resources required to make necessary repairs to their homes. While providing for needed repairs it is also prudent to make loans that can be secured in a manner protective of the State's investment of funds. Repaid funds can be used to further the goals of the Program. The underwriting and construction requirements are intended reduce the possibility of defaults or foreclosures, which would most likely result in loss of CalHome funds. As CalHome loans will likely be in secured, in most cases, in a second lien position, it is especially important to follow sound lending practices. In addition, the requirements are also intended, as much as is possible, to avoid placing homeowners in a difficult financial position that could possibly lead to loss of their home.

Documentation, Study or Report: The regulations are based on the Department's experience in underwriting and construction requirements in the deferred homeownership loans under the CHRP-O Program. The Department also has experience with owner-occupied rehabilitation loans in the HOME Program.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section describes specific underwriting and rehabilitation construction procedures and formulas that must be followed to ensure sound lending practices.

Fiscal and Economic Impacts: None. No adverse effects are imposed.

Discussion:

Subsection (a) Recipient shall develop and employ Owner-Occupied Rehabilitation Program Guidelines approved by the Department.

Subsection (a) (1) the recipient's underwriting and construction guidelines will provide their program's credit requirements. The purpose of a review of the credit history is to gauge the willingness and ability of the potential borrower to repay their debts. It is an important fiduciary responsibility of the recipient to make an educated and informed judgment regarding the borrower's willingness to make payments on debts and to eventually repay the government loan. Unlike mortgage assistance loans, the Department is not requiring housing debt ratios as a determinant of affordability. The Department has decided that it is reasonable to assume that the homeowner's current housing expenses are affordable to them and they only require assistance to make needed repairs, not to reduce their housing costs. This presumption of affordability is only reasonable if a review of the homeowner's credit history indicates that the homeowner is not having, nor has recently had, financial difficulties.

Subsection (a) (2) the recipient's underwriting and construction guidelines will provide the Department with their rehabilitation requirements. The guidelines must show that the recipient can ensure that the rehabilitation work to be performed is completed in a competent and professional manner at the lowest reasonable cost. The recipients are required to help the homeowner throughout the rehabilitation transaction. It is the recipient's responsibility to show that the CalHome funds are properly spent. The recipient must ensure that the homeowner is protected from mechanics' and/or material men liens, especially when government funds are used to rehabilitate their home.

Subsection (b) this contains the property appraisal requirements of the Program. The regulations establish a value limit for home purchases (Section xxxx) and a loan-to-value ratio (Section 7727 (a)), which are based on home values determined by property appraisals.

Subsection (b) (1) The Department has determined that a qualified person should prepare this appraisal. Possession of a current State appraiser's license, issued by the California Office of Real Estate Appraisers, determines who is qualified to perform the appraisals. Furthermore, the appraiser must be qualified to appraise residential properties.
The Department has determined that of the available methods, the comparable sales approach to determining value is the most frequently used, most accurate and reliable method for appraising residential properties.

Subsection (b) (2) Limits the appraised value of the rehabilitated property may have upon completion of all rehabilitation work. The appraisal shall take into consideration the estimated value of the rehabilitation work to be completed on the property and shall include the pre-rehabilitated value and the after-rehabilitated value. The intent is that CalHome borrowers make improvements to homes in order to remove any substandard conditions or conditions that are a threat to the health and safety of the inhabitants.

Subsection (b) (3) The Program does not require and appraisal in the case of rehabilitation work on a manufactured home not on a permanent foundation. The recipient will be responsible to do an inspection on the manufactured home to ascertain if the manufactured home should be repaired or replaced.

Subsection (c) Prohibits cash from being paid to the CalHome borrower at the close of escrow. This is to ensure that CalHome funds are spent only in the amount required to pay for actual rehabilitation costs.

Subsection (d) Requires CalHome recipients to obtain title insurance for the CalHome loan. This is a standard industry practice for residential lenders as a protection against possible title problems not identified by the title company prior to the securing of a CalHome lien on property.

Subsection (e)(1-2) Denotes that CalHome recipients must require homebuyers to purchase and maintain fire and casualty insurance on property purchased with CalHome funds, including flood insurance where required. This is standard industry practice for residential lenders as a protection against possible loss of loan security and actual loan funds due to fire, accidents, floods and other hazards. The insurance must be maintained in an amount equal to the value of the improvements (excludes the land) in the event there is a total loss. To be covered under the homeowner's insurance the recipients, as lenders, must ensure they are listed on the policy as an additional loss payee.

Section: 7736. Self-Help Technical Assistance Eligibility Requirements

Requirement or Necessity: Applicants need to understand these requirements in order to determine if they have the minimum experience necessary to apply for funding.

Documentation, Study or Report: The regulations are based on the Department's experience in providing self-help technical assistance grants under the CSHHP Program. The Department also has experience with mutual self-help projects through programs such as the JSJWHG and the HOME Program.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to: meet various programmatic requirements; to ensure that self-help participants receive proper and sufficient technical assistance to complete construction of their homes in a professional and competent manner and receive appropriate and sufficient financing to purchase their homes at a reasonable cost.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Besides the requirements found in Section 7717, to be eligible to apply for a CalHome self-help technical assistance grant, an "Eligible Sponsor" must have successfully completed a minimum of two self-help new construction projects within the four years immediately preceding the application.

Section: 7737. Self-Help Technical Assistance Eligible Costs

Requirement or Necessity: It is necessary to define the specific costs for which CalHome self-help technical assistance funds may be expended.

Documentation, Study or Report: The CalHome statutes itemize certain uses of funding as cited in H & S Code Section 50406(n), 50650.2 and 50650.3(b). Provisions are based on the Department's experience in another program, CSHHP.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies of Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Describes the various technical assistance costs which may be funded for activities and techniques.

Subsection (b) The Department will reimburse the Recipient for the cost of the required Homebuyer Education in the amount of which is published in the current NOFA.

Subsection (c) This describes various professional services which are eligible costs but does not limit the costs allowed to these alone.

Subsection (d) Describes types of administrative costs which may be funded with self-help funds but is not limited to these alone.

Section: 7738. Self-Help Technical Assistance Requirements.

Requirement of Necessity: It is necessary that applicants for funding and recipients of awards fully understand the responsibilities and requirements as self-help technical assistance providers.

Documentation, Study or Report: The regulations are based on the Department's experience in providing self-help technical assistance grants under the CHHHP Program and the JSJWHG and HOME Programs.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to meet various programmatic requirements.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Requires the recipient to develop and use Guidelines which will be reviewed and approved by the Department.

Subsection (b) Requires the recipient to sell the home at its appraised value or less.

Subsection (c) Limits the amount of an advance of funds to 25% of total grant amount.

Section: 7739. Shared Housing Technical Assistance Eligibility Requirements

Requirement of Necessity: Applicants need to understand these requirements in order to determine if they have the minimum capacity required to perform the responsibilities.

Documentation, Study or Report: The Department relied upon historical information regarding the Department's previous operation of the Senior Citizen Shared Housing Program. The Department also contacted and worked with the National Shared Housing Resource Center and two long-term shared housing provider organizations.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to meet various programmatic requirements.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Besides the requirements found in Section 7717, to be eligible to apply for a CalHome shared housing technical assistance grant, an eligible applicant must have successfully administered a shared housing program for a minimum of two years immediately preceding the application.

Section: 7740. Shared Housing Technical Assistance Eligible Costs

Requirement or Necessity: It is necessary to define the specific costs for which CalHome shared housing technical assistance funds may be expended.

Documentation, Study or Report: The Department relied upon historical information regarding the Department's previous operation of the Senior Citizen Shared Housing Program. The Department also contacted and worked with the National Shared Housing Resource Center and two long-term shared housing provider organizations.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies of Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Describe indirect costs of administering a shared housing local program.

Subsection (b) Describes costs of direct services.

Section: 7741. Shared Housing Technical Assistance Program Administration

Requirement or Necessity: It is necessary that applicants for funding and recipients of awards fully understand the responsibilities they are expected to fulfill as shared housing technical assistance providers.

Documentation, Study or Report: The Department relied upon historical information regarding the Department's previous operation of the Senior Citizen Shared Housing Program. The Department contacted and worked with the National Shared Housing Resource Center and consulted with two long time-shared housing provider organizations. In addition, the requirements and program descriptions of two local jurisdiction programs currently funding shared housing technical assistance were obtained and reviewed.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: These provisions describe the minimum capacities a recipient must have in order to: meet various programmatic requirements; to ensure that the seekers matched to homeowner providers are meeting the needs of the homeowner providers for services and/or a reduction in housing costs; and that ongoing services are made available to assist the success of the match.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Establishes the minimum services the Department has determined that a recipient of a shared housing technical assistance grant should be providing on behalf of homeowner providers.

Subsection (a)(1) Requires the recipient to have information prepared about all aspects of the program and to be available to all individuals requesting assistance. Ensuring that information is available is fundamental to success of the program

Subsection (a)(2) Requires proactive outreach efforts on the part of the recipient. The recipients must market their shared housing services to seekers, but more importantly, must actively reach out to find homeowners who would benefit from shared housing services.

Subsection (a)(3) Requires the recipient to develop an evaluation process for obtaining responses from both seekers and homeowners regarding the shared housing services provided. These evaluations are meant to be analyzed by the recipient in order to gauge the effectiveness of their services or where improvements may be made.

Subsection (a)(4) Describes the minimum services that every recipient is expected to provide in the match process in order to affect an eligible match. The Department has determined that these minimums are necessary to obtain the necessary information to determine eligibility and for protection of both parties.

Subsection (a)(5) Specifies a minimum reduction in housing costs for the homeowner provider or else services rendered for over 60 years of age or disabled. Documenting such will ensure that the intent of the program in assisting homeowners to remain as homeowners will be met.

Subsection (a)(6) Requires recipients to provide follow-up services to the homeowner and seeker, to assist in maintaining the satisfaction of both parties with the match. The recipient can provide valuable assistance toward maintaining the match, by providing follow-up services, particularly in mediating any issues or disputes that may arise.

Subsection (b) Prohibits reimbursement for a match in which a homeowner is renting out more than two rooms in their home. The limited funding available should be used to assist homeowners who need financial or other assistance, but have little or no experience in locating a suitable tenant to meet their needs

Subsection (c) Describes limits on the amount and timing of reimbursements to a recipient. Limits are necessary to provide for an efficient and effective use of limited funding.

Section: 7742. Development Loan Eligibility Requirements

Requirement of Necessity: Applicants need to understand these requirements in order to determine if they have the minimum experience necessary to apply for funding.

Documentation, Study or Report: The Department has relied upon its extensive experience with development loans and in joint funding development projects with local government and private financing sources.

Alternatives Considered: None.

Prescribed Actions, procedures, Technologies or Performance Standards: Recipients that do not meet these requirements will not receive loan funds.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.
Discussion:

The CalHome Program requires recipients for homeownership project development loans to be experienced single-family housing developers.

Section: 7743. Development Loan Eligible Costs

Requirement of Necessity: It is necessary to define the specific costs for which CalHome funds may be expended on a development project.

Documentation, Study or Report: The CalHome statutes itemize certain uses of funding (H&S Code Section 50650.3 and 50650.5). The provisions are based on Department experience with other programs, specifically, CHRP-O, JSJWHG, CSHHP and HOME.

Alternatives Considered: None. No adverse impacts are imposed.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsections (a-i) These subsections list out the authorized uses of CalHome funds.

Section: 7744. Development Loan Site Control

Requirement of Necessity: It is necessary for the developer to know what kinds of site control he must have.

Documentation, Study or Report: The provisions are based on industry standards and on Department experience with other programs, specifically, CHRP-O, JSJWHG, CSHHP and HOME.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsections (a-f) Having one of these forms of site control will give the Department assurance that the project will be able to proceed without excessive delay.

Section: 7745. Maximum Development Loan Amount

Requirement or Necessity: The CalHome legislation requires the Department to set loan limits (H&S Code, Section 50650.7). In addition, the Department is directed to ensure, to the extent feasible, that funds awarded achieve reasonable geographic distribution. Placing a maximum on the amount of the homeownership project development assists the Department in achieving this goal.

Documentation, Study or Report: Many Department programs limit the amount of funding that may be given to any single developer and/or project. This includes the HOME Program, the JSJWHG Program, the Rental Housing Construction (RHCP) Program, and the Multifamily Housing Program (MHP).

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion: Maximum development loan amounts will be established by the Department in the NOFA. The desirable maximum loan amounts can be influenced by many factors not within Department control. Some of those factors are the amount of funding allocation the Department receives, the demand for development loans, changing local State or Federal requirements, and changing costs of development, construction and land. The Department has determined that it is important to have flexibility to establish maximum loan amounts in the NOFA rather than state a specific amount in the regulations, which may prove infeasible in a short period of time.

Section: 7746. Development Loan Terms.

Requirement or Necessity: The CalHome legislation requires the Department to set the terms of CalHome loans (H&S Code, Section 50650.7).

Documentation, Study or Report: The Department has extensive experience with development loans for single-family projects in such programs as the HOME Program, the JSJWHG Program, and the PDLP Program. The Department also has experience in jointly funding development projects with local government financing sources and private financing sources. The Department has relied upon this experience in developing these loan terms.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: The Program will only be able to provide homeownership development loans that have terms and conditions described herein.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Encumbrance of the financed property and improvements is standard industry practice for securing repayment of a development loan. It is also standard practice in other Department programs such as HOME, JSJWHG, and PDLP.

Subsection (b) The development loan is made pursuant to a Standard Agreement (Section 7743 (a)) and is subject to the terms of that Standard Agreement. Regardless of when the loan is made to the developer borrower, this regulation requires that the maturity date of the loan be no later than the expiration date of the Standard Agreement.

Subsection (c) Lenders providing development loans generally defer payment of principal on the loan. Repayment of their loan generally comes from the financing provided for construction of the houses. In the case of the CalHome loan, repayment of the loan is expected to come from the sales proceeds of the completed houses. If the homes are sold to eligible low-income households, the developer will not be required to pay any interest on the CalHome loan (subsection (e) below). Since the low-income eligibility of purchasing households usually cannot be determined until sale of the homes, it makes sense for the Department to defer collection of interest until this determination can be made.

Subsection (d) The CalHome loan funds are due on the maturity date of the loan at the latest. If a qualified homebuyer receives a CalHome mortgage assistance loan, the amount of the homebuyer's CalHome loan will be converted to a grant to the developer per statute (H&S Code, Section 50650.3(b)). The actual intent of the CalHome Program is that the CalHome loan funds be used by the recipient to provide mortgage assistance to individual qualified homebuyers. So if a family needed a $20,000 mortgage assistance loan, rather than have the recipient repay $20,000 to the Department, the Department would convert the $20,000 to a grant to the recipient and the recipient would provide a mortgage assistance loan to the homebuyer per the terms of the CalHome Program. Any portion of the original loan amount that is not loaned to an eligible homebuyer as mortgage assistance must be repaid to the Department (H&S Code, Section 50650.3(b)).

Subsection (e) The Department has determined that it is necessary to charge forgivable interest on development loans. Interest will be forgiven to the extent that low-income households are able to purchase a home in the development. The Department is providing a development loan based on the developer's representation that the homes will be affordable to low-income households and that qualified low-income households will be found to purchase the homes. Forgiveness of interest acts as an incentive to the developer to find eligible households to purchase the homes. The rate of interest charged must be sufficiently high to be an effective incentive. If the developer fails to sell some or all of the homes to CalHome eligible buyers, the Department would at least receive a financial return on the investment. There are three possible repayment scenarios:

- In scenario one, the entire amount of the development loan principal is converted to a grant that the recipient has loaned to qualified lower-income homebuyers enabling the buyers to purchase homes in the development at an affordable cost. In this case, the developer will not have to pay the loan principal back to the Department and will not owe any interest on the loan. In the example given above, the entire $200,000 would end up being converted to a grant and loaned by the recipient to the ten qualified low-income households.

- In scenario two, qualified low-income homebuyers purchase ten homes, but the ten homebuyers only required a portion of the $200,000 to make the purchases affordable. In the example, ten lower-income households only required a total of $180,000 in loans to make their home purchases affordable. The recipient would be required to repay $20,000 in loan principal, but would not be required to pay any interest on the loan, because the goal of providing homes to ten low-income households has been achieved.

- In scenario three, qualified low-income homebuyers purchase some of the homes. In the example, assume low-income homebuyers receive a total of $120,000 in CalHome loans to purchase six of the homes. The $120,000 that has been loaned to the six homebuyers would be converted to a grant to the recipient. The recipient would be required to repay the remaining $80,000 to the Department, plus 6% interest on that $80,000, because the promised goal of providing ten homes to lower-income homebuyers had not been achieved. In this case, the pro rata amount of interest forgiven would be 60%.

Section: 7747. Development Loan-to-Value Limits

Requirement or Necessity: The CalHome legislation requires the Department to set the terms of CalHome loans (H&S Code, Section 50650.7)

Documentation, Study or Report: The Department has relied on its extensive experience with development loans for single-family projects in the HOME, the JSJWHG and the PDLP Programs along with jointly funding development projects with local government and private financing sources.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: The Program will only be able to provide homeownership development loans that have terms and conditions described herein.

Fiscal and Economic Impacts: None. No adverse impacts imposed.

Discussion:

Subsection (a) Recipients may use a homeownership project development loan to purchase the unimproved land on which the project will be built. The land is the only security for the loan and would be the only recourse for recovery of the Program funds in the event of a default. It is prudent lending and standard industry practice to not lend funds in excess of the appraised value of the land as purchased.

Subsection (b) Recipients may use loan funds to purchase single-family lots that are ready for construction of homes. Again, it is prudent and standard industry practice to not lend funds in excess of the appraised value of the land as purchased.

Subsection (c) CalHome loan funds for homeownership development projects may also be used for predevelopment costs and for costs of improvements to the site necessary before commencement of house construction. When the Department has agreed to finance these costs, the land itself may not be sufficient to secure the total loan amount. However, these costs are necessary if the project is to be built. The ratio is limited to 100% of the land value, plus the predevelopment and/or site improvement costs as approved by the Department.

Section: 7748. Development Requirements.

Requirement or Necessity: It is necessary that applicants for funding and recipients of awards fully understand their responsibilities and the basic requirements that must be fulfilled before loans can be funded. Applicants need to understand these requirements in order to determine if they will be able to meet these requirements. Although applicants may have developed other housing projects, they may not have had to meet the same conditions required by the CalHome Program. They need to know up front what the Department's expectations are for developers.

Documentation, Study or Report: The Department has relied on its extensive experience with development loans for single-family projects in the HOME, the JSJWHG and the PDLP Programs along with jointly funding development projects with local government and private financing sources.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: Recipients that do not meet these requirements will not receive loan funds.

Fiscal and Economic Impacts: None. No adverse impacts are imposed.

Discussion:

Subsection (a) Regardless of the specifics of a homeownership project, all recipients must meet these conditions before loan funds will be disbursed.

Subsection (a)(1) The CalHome Program requires recipients for homeownership project development loans to be experienced single-family housing developers. The award of funds is being made to a single entity that is an eligible recipient for this purpose. The approved recipient should be the sole owner of the project site with sufficient capacity to be the homeownership project developer without having any co-owners or co-developers.

Subsection (a)(2) It is standard industry practice to require that all funds necessary to complete a project be committed before a lender will disburse any of their funds. It would be an unacceptable risk and fiscally imprudent to disburse funds without any assurance that all funds required to complete the project are available and committed. The total of all sources of committed funds will be compared to the final budget submitted per subsection (a)(3) below.

Subsection (a)(3) Review of a final estimated construction budget is essential to the Department being able to judge the feasibility of the project prior to disbursing Program funds.

Subsection (a)(3)(i) The Department has sales price/value limits established per Section 7731(b)(3). These are the limits established for mortgage assistance and homeownership project development loan funds to be converted to grants to the recipients for funding mortgage assistance loans to homebuyers. A Department review of the budget must indicate that the cost involved in building the project will allow the homes to be sold at a value that is within these limits.

Subsection (a)(3)(ii) Even if homes meet the limits established pursuant to Section 7731(b)(3), the proposed sales prices of the home must still be determined to be affordable to low-income homebuyers according to the mortgage assistance underwriting requirements of Section 7731. This will depend on factors such as the low-income limit for the county in which the homes are located and the sources of financing that will be available to the homebuyers. Department review of the budget must satisfy the Department that sale of the homes to low-income buyers can be feasibly accomplished.

Subsection (a)(4) The predisbursement requirements established in these regulations cannot possibly cover all the individual requirements the Department might find necessary for individual projects. These project specific requirements are established after review of the relevant information submitted in the application or requested prior to an award and are then itemized in the Standard Agreement. Any conditions established are to ensure that the project can be completed, will meet the Program value limits (Section 7731(b), and will be affordable to low-income homebuyers.

Subsection (b) The CalHome Program requires recipients for homeownership project development loans to be experienced single-family housing developers. The award of funds is being made to a single entity that is an eligible recipient for this purpose. The approved recipient should have sufficient capacity to be the homeownership project developer without having any co-owners or co-developers.

Subsection (c) Homeownership project development loan recipients are prohibited from charging homebuyers a sales price that is higher than the appraised value. If the sales price were over the appraised value of a home, the lender would expect the borrower to pay cash for the amount that exceeds the appraised value. The Department has determined that CalHome assistance should not be used to purchase a home at a sales price that is more than a home is worth. This is not an eligible use of CalHome funds.

Section: 7749. Application Process

Requirement or Necessity: The CalHome statutes direct the Department to allocate funds utilizing a competitive application process (H&S Code, Section 50650.4). The Department is also directed to award funds to entities that demonstrate sufficient organizational stability and capacity to carry out the activity for which they request funds. The statutes further direct the Department to use weighted evaluation criteria including, but not limited to volunteer of self-help labor, construction skills training for youth, community participation and whether a program or project contributes to community revitalization. The Department, to the extent possible, must ensure a reasonable geographic distribution of funds. The Program goal is to have the funds used to enable low- and very low-income households to become or to remain homeowners (H&S Code, Section 50650.3(a)).

To achieve all of these goals and directives, the Department must establish a credible, objective application process that results in the award of funds to eligible applicants who have the greatest ability to meet the program goals and to expend funds in a timely manner.

Documentation, Study or Report: Most Department programs use a prescribed competitive application process including HOME, MHP, and CDBG.

Alternatives Considered: None. The statute requires the use of a competitive application process (H&S Code, Section 50650.4).

Prescribed Actions, Procedures, Technologies or Performance Standards: This section prescribes the application and award process that will be used by the Department.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) The Department is required to issue periodic NOFAs that will contain specific information including minimum/maximum application amounts, minimum/maximum amounts per assisted unit, sales price/value limitations, the activities for which application may be made, the deadline for applications, the general terms and conditions of funding commitments, the allocation of rating points, and a schedule for the award of funds. The sales price/value limit of 95% of area median sales price for a single family home is descriptive of the figure used to determine HUD's 203(b) mortgage limits. This is a common value used in homeownership programs, including HOME. The Health & Safety Code (H&S Code, Section 50650.7) requires the CalHome Program to set home price limits. The intent of information included in the NOFA is to provide sufficient information to potential applicants to determine if they are eligible to apply, if they wish to apply and what they must do to apply. This is a typical procedure in Department programs using a competitive application process. In CalHome, the timing of NOFAs is primarily dependent on the availability of funds.
Subsection (b) The statutes direct the Department to give weight in the awarding of funds to projects or programs that utilize volunteer or self-help labor, youth construction skills training programs, and projects or programs aimed at community revitalization. It also directs the Department as directed by the administrative or legislative process, to fulfill an eminent need, or;

to attempt to achieve a reasonable geographic distribution of funds, including rural areas.

Subsection (b)(1) The Department may choose to issue separate NOFAs for different type of activities or for projects. This practice helps the Department further define the segment of the housing market, which is the target for CalHome assistance.

Subsection (b)(2) The Department may wish to achieve certain goals or more equal distribution of the funds through the award of bonus points, instead of issuing separate NOFAs. Extra points help prioritize those applications with a particular focus on an isolated need within a program activity without discouraging participation of applicants in the application process.

Subsection (b)(3) The Department may impose the right to exercise restrictions on population density, geographic distribution, and activity specific distribution of awards, in order to provide a diversified allocation of awards.

Subsection (b)(4) The Department may impose the right to exercise the competitive award of NOFA funds by the over-the-counter process. For a variety of viable reasons, this method may prove to be the most efficient process available to appropriately expedite the use of funds.

Section: 7750. Application Requirements

Requirement or Necessity: The CalHome statutes direct the Department to allocate funds utilizing a competitive application process (H&S Code, Section 50650.4). The Department is also directed to award funds to entities that demonstrate sufficient organizational stability and capacity to carry out the activity for which they request funds. The statutes further direct the Department to use weighted evaluation criteria including, but not limited to volunteer of self-help labor, construction skills training for youth, community participation and whether a program or project contributes to community revitalization. The Department must also ensure a reasonable geographic distribution of funds, to the extent possible. The Program goal is to have the funds used to enable low- and very low-income households to become or to remain homeowners (H&S Code, Section 50650.3(a)).

Documentation, Study or Report: Some Department programs have prescribed application forms currently adopted into their regulations such as the HOME Program and the RHCP Bond Program. Other Department Programs do not have prescribed applications forms adopted as part of their regulations such as PDLP, JSJWHG and MHP. To have a prescribed application form adopted into regulations has proved to be a very cumbersome way to establish the application data needed. The current application forms developed for the multiple eligible activities and budgetary set-aside would take up more than 50 pages in the regulations. An amendment of the regulations is then required for every change, even if the basic requirements of the Program remain unchanged. No single application form can accommodate activities or priorities that may be attached to shifting priorities identified in allocation language. There fore, the Department does not require the use of a specified application form. However, the Department must approve any application form proposed to be used by an applicant. The Department must ensure that any form used will provide the information necessary to the competitive selection process.

Alternatives Considered: The principal alternative considered was to specify a particular application form and adopt it into the regulations. This would impose significant additional program costs, reduce administrative flexibility to respond to changing market conditions and priorities, and would negatively impact the Department's ability to achieve program goals and objectives in a timely manner.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section prescribes certain requirements an application for funding must meet.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) An application for funding must be made on a form that has been approved by the Department. The purpose of the application is to extract information necessary to fairly judge the strength, need, capability, and capacity of the applicant. Additional instructions may be stated in the NOFA. Complete and legible applications are required in order to be considered in the competitive award process.

Subsection (b) The Department will deny incomplete applications.

Subsection (c) An award of funds will require the successful applicant to enter into a contract with the Department setting forth the rights and obligations of both parties. The Department will want to ensure that the governing board of the applicant organization is authorizing the submission of the application and is willing to have the organization enter into a binding agreement with the Department upon receipt of an award of funds.

Section: 7751. Selection Criteria

Requirement or Necessity: The statute requires the Department to utilize a competitive application process. It also directs the Department to give weight in rating programs and projects to certain factors (H&S Code 50650.4). Through considerable experience with the competitive selection process, the Department has determined that clear and detailed criteria for the competitive evaluation of applications are necessary. First, potential applicants will understand what requirements they must meet and the capacity they must have as an applicant to be eligible and what requirements their program or project must meet in order to be eligible and competitive. Secondly, clear and detailed criteria indicate to applicants that their applications will be judged in an objective and fair manner. Finally, the criteria are intended to help select programs and projects that are feasible and will best meet the program goals and objectives. This last issue becomes even more important when the demand for funding exceeds the funds available for award by the Department.

Documentation, Study or Report: Many other Department Programs have regulations specifying the selection process and utilizing a point rating system such as CHRP-O (CCR Title 25, Section 8055), MHP (CCR Title 25, Section 7320), HOME (CCR Title 25, Section 8212).

Alternatives Considered: None. The statute mandates a competitive selection process.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section prescribes the basic steps in the applicant selection process, specifies threshold criteria that must be met, and specifies points that will be awarded for certain categories.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) The Department has established minimum threshold requirements that an application must meet in order to be eligible for rating in the selection process. The applicant must demonstrate compliance with these minimum requirements by the deadline stated in the NOFA. The selection process is competitive and the Department has determined that fairness requires that no applicant should be allowed more time than another applicant to meet threshold requirements or to provide information regarding their program or project that might affect their competiveness. All applicants should have an equal period of time to complete the application as fully as possible.

Subsection (a)(1) If an applicant is not eligible pursuant to Section 7717; the application cannot be considered for funding and will not be rated.

Two sections of the statute describe eligible applicants as either local public agencies or nonprofit corporations (H&S Code 50650.3(a) and 50650.4). Eligibility as one of these types of organizations is a threshold requirement that must be met by every applicant. Documentation will be requested by the Department that is sufficient to determine that an applicant meets the requirements of Section 7717, which implement the statutory requirements for eligibility.

The statute requires applicants to demonstrate sufficient organizational stability and to demonstrate the capacity to carry out the activity for which they are requesting funds. It further states that capacity may be determined by substantial successful experience performing similar activities or through other means acceptable to the Department. Applicants must also demonstrate the capacity to manage a loan portfolio (H&S Code, Section 50650.4).

Subsection (a)(2) Only appropriate applications will be accepted for specified NOFAs

Subsection (a)(3) If an applicant proposes a use of funds that is not eligible pursuant to Section 7719; the application cannot be considered for funding and will not be rated.

Subsection (a)(4) This refers the reader to Section 7741(b) for a description of what is considered a “complete” application. Applications that are not complete cannot be considered for funding and will not be rated.

Subsection (a)(5) The Department has determined that it would be inappropriate to consider funding an applicant that has unresolved audit findings for other Department or federal programs. Unresolved audit findings may indicate serious issues with the applicant’s ability to comply with program requirements or even a question of improper use of government funding.

When issues such as this have been raised through a formal audit process and remain unresolved, the Department will not consider the applicant for funding and the application will not be rated.

Subsection (a)(6) The applicant warrants, that it has no pending lawsuits which could affect its financial condition and ability to perform a CalHome contract.

Subsection (b) The Department is required to award funds on the basis of a competitive selection process (H&S Code, Section 50650.4). In order to maintain a viable program, the applications will rated using a criteria as published in the current NOFA.

Section: 7752. Legal Documents

Requirement or Necessity: The awarding and loaning of CalHome funds carries with it responsibilities and requirements for parties involved in various activities including the Department, the cities, counties and nonprofit organizations that receive funding and individual households that receive CalHome loans. The documents listed in this section incorporate the CalHome Program requirements, State of California legal requirements, and the terms and conditions associated with loans and grants. These documents are designed to ensure clarity of roles and responsibilities for all parties involved and ensure the proper use of CalHome funds for the uses intended by statute.

Documentation, Study or Report: CHRP-O regulations (CCR Title 25, Section 8056), HOME regulations (CCR Title 25, Section 8214), CHRP-R regulations (CCR Title 25, Section 7690) and MHP regulations (CCR Title 25, Section 7321), all include similar sections. The Standard Agreement is a standard State form. Long-term compliance documents such as regulatory agreements or long-term Standard Agreements are used in other Department Programs. The use of development agreements, promissory notes and deeds of trust are standard practice in the public and private real estate lending industry.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This section requires the Department and recipients of CalHome funds to execute certain legal documents prior to the disbursement of funds. When applicable, it also requires recipients of CalHome funds and the individual households to whom they make loans, to execute certain loan documents prior to the disbursement of loan funds.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) Once an award of funds has been made under the competitive selection process, a Standard Agreement formalizes this conditional commitment of funds into a legal document that itemizes the terms and conditions for the disbursement and use of funds. The Standard Agreement is a statement that the Department must disburse the promised funds, but only if the recipient meets the terms and conditions for disbursement of funds as identified in the Standard Agreement.

Each program and project is unique, requiring special conditions to be established in the Standard Agreement at time of award.

Subsection (b) CalHome statutes allow CalHome recipients to deposit repayments of CalHome loan funds to a reuse account. It further requires the Department to approve recipients' reuse plans and restricts the use of those funds to activities allowed under the CalHome statute (H&S Code, Section 50650.3(b)). The Standard Agreement, which covers the initial use of the funds, expires shortly after the 95% expenditure performance deadlines (Section 7746). To allow the Department to monitor recipients' loan portfolio servicing and reuse account compliance with CalHome requirements over a long-term period, the Department is requiring execution of a Monitoring Agreement between the recipients and the Department prior to the initial disbursement of awarded funds. This subsection describes minimum terms and conditions that will be included in a Monitoring Agreement.

Subsection (c) Describes the legal documents required for loans to individual homeowners and homebuyers.

Subsection (c)(1) CalHome financial assistance to individual households is required to be in the form of a loan (H&S Code, Section 50650.3(b)). This subsection requires the use of a promissory note to evidence the loan and the terms and conditions of the loan. The loan must also be secured against the financed property by a deed of trust or other appropriate security instrument. In the housing lending industry, use of such documents to evidence and secure loans is standard practice. The documents establish that a loan has been made and what the terms and conditions of loan are and provide for security of the funds in the event of a failure to repay the loans.

The Department awards funds based partially on the recipient's capacity to manage a loan portfolio (Section 7742(b)((1)(C)). The Standard Agreement and subsequent Monitoring Agreement are between the Department and the recipient. Finally repayments of loans are required to be deposited to a reuse account approved by the Department. Therefore, the recipient is prohibited from assigning their beneficial interest under the promissory notes.

Subsection (c)(2) In the case of owner-occupied rehabilitation loans, the recipient will be recording a lien against the homeowner's property before the rehabilitation work commences. The promissory note governs the loan terms and conditions. A separate rehabilitation agreement is being required between the recipient and the homeowner in order to clarify the roles and responsibilities of the recipient and the homeowner regarding the rehabilitation work to be done. The agreement essentially covers the period from execution of the promissory note to completion of the rehabilitation work and is meant to ensure satisfactory completion of the work. This subsection lists items that should be included in the agreement, at minimum. These requirements have been basically adopted from CHRP-O regulations (CCR Title 25, Section 8056(b)).

Subsection (d) Describes the legal documents required for a Department loan to a recipient for a homeownership project development.

Subsection (d)(1) This regulation requires CalHome recipients to follow this standard industry practice.

Subsection (d)(2) Homeownership project development loan funds are disbursed before and/or during site improvement construction, which is often before low-income households are identified and qualified as eligible under the CalHome Program. A Development Agreement between the recipient and the Department itemizes the requirements and responsibilities of both parties and requires certain protections for the Department and the project.

Subsection (e) Self-help technical assistance legal documents should fully disclose the responsibilities of all parties to the CalHome transaction.

Section: 7753. Disbursement of Grant and Loan Funds.

Requirement or Necessity: Recipients of CalHome Awards are responsible for knowing how and when they may access reimbursement of CalHome Funds, and must schedule their activities accordingly.

Documentation, Study or Report: A review of Department Programs indicates at least eight programs have regulatory sections regarding the disbursement of funding.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: The Department will only be able to make disbursements according to these requirements, with no exceptions.

Fiscal and Economic Impacts: The purpose of CalHome funding is to support existing homeownership programs (H&S Code, Section 50650(c)), implying that applicants have other resources available already. However, CalHome recipients have the option of having funds advanced disbursements or reimbursed for expenditures.

Discussion:

Subsection (a) CalHome funds are reimbursed to recipients on a transaction completion basis. Exclusions to this rule are set out in the following subsections.

Subsection (a)(1) Recipients may access funds for homeownership project loans, prior to completion of the subject project. In an effort to prevent stagnation of cash flow, Department approval is required.

Subsection (a)(2) Recipients of CalHome Funds for self help and shared housing technical assistance may access advances of up to twenty five (25) percent of their award in order to capitalize their activity.

Subsection (a)(3) Recipients of CalHome Funds for owner-occupied rehabilitation projects may access advance disbursements of their award for designated projects, where all legal documents have been signed and consummated after the borrowers three (3) day right of rescission has expired.

Subsection (a) (4) The Department may at its discretion; forward any requested disbursement to an escrow in an effort to prevent the recipient from becoming under capitalized.

Section: 7754. Reporting Requirements

Requirement or Necessity: The CalHome statute requires the Department to establish monitoring requirements (H&S Code, Section 50650.7). Establishing reporting requirements is part of the Department's monitoring process. In addition, the collection of information on recipient activity allows the Department to measure progress, accomplishments, and problems. It allows the Department to provide timely technical assistance and make adjustments to the program operations if necessary. Collection of information and data also allows the Department to respond to inquiries about the Program from the legislature or other interested parties.

Documentation, Study or Report: A survey indicates that at least 10 other Department programs include reporting requirements in their regulations. Some of these programs are CHRP-O, MHP, HOME and CDBG.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: All recipients of funds will be required to report to the Department on their activities on a quarterly and annual basis in a format approved by the Department.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) During the term of the Standard Agreement, receipt of quarterly reports allows the Department to monitor the progress of the Program and also indicates what problems or issues are arising and when technical assistance from the Department staff may be needed.

Subsection (b) An annual report allows the Department to obtain data for preparation of a Program annual report as may be required. As quarterly reports are not required after the expiration of the Standard Agreement, the annual report will be one mechanism the Department will use to monitor reuse accounts established pursuant to Section 7732.

Subsection (c) The Department may require a financial audit of a Recipient's program, project, or reuse account to determine that Program funds have been or are being used in compliance with the requirements of the statute and these regulations. This is a regulatory provision typical of Department programs. It is common practice to require that such audits be prepared by independent certified public accountant.

Section: 7755. Performance Goals.

Requirement or Necessity: The goal of the CalHome Program is to ultimately produce or rehabilitate affordable housing. Establishment of performance goals determines the expiration date of the Standard Agreement and encourages recipient's to perform actions necessary to providing affordable housing in a timely manner. The recipient needs to know up front the timeframe in which all work must be completed. This information is necessary to potential applicants for planning purposes and also is necessary for them in determining if they should or shouldn't apply at any point in time, depending on readiness to proceed.

Documentation, Study or Report: All Department programs have an established timeframe for completion of work for which funding as been awarded.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: This establishes a performance standard for completion of work under the Standard Agreement.

Fiscal and Economic Impacts: None.

Discussion:

Subsection (a) This is the allotted timetable and performance requirement for a successful program.

Subsection (a) (1) The Department will disencumber contracts with unexpended funds at the end of the contract period

Subsection (a) (1) (A) The Department, at its own discretion, may impose future penalties on recipients with disencumbered contracts.

Subsection (a) (1) (B) Subsection title. These timeframes apply to recipients of loans for homeownership project development funding.

Subsection (b)(1) The Department at its own discretion may exercise the right to disencumber any homeownership development project that has not drawn down funds or begun onsite construction within twenty two (22) months of the award of funds.

Subsection (b)(2) As one goal of the CalHome Program is to provide for affordable housing in a timely fashion, there must be a reasonable date of completion for a project.

Subsection (c) Subsection title.

Subsection (c)(1) The Department at its own discretion may disencumber non-performed contracts if construction has not begun within twelve (12) months of the award of funds by the department.
Subsection (c)(2) A contract is fully performed if completed within thirty six (36) months of the award of funds.

Subsection (c) (2) (A) The Department at its own discretion may disencumber unexpended funds at the expiration of the contract period.

Subsection (c) (2) (B) The Department at its own discretion may impose future penalties on recipients which were disencumbered from previously awarded contracts.

Section: 7756. Defaults and Commitment or Loan Cancellations

Requirement or Necessity: The Department awards CalHome funds with the intent of producing or rehabilitating affordable homeownership opportunities to lower-income Californians. From time to time, a recipient of funding may become unable to complete the work according to the terms of the commitment or terms of loan, as applicable. It may become clear at some point that a recipient will not be able to comply with CalHome requirements, or may not be able to complete work in a timely manner. This section provides notice of the Department's recourse in the event that Program goals and requirements cannot be met as determined by the Department.

Documentation, Study or Report: Regulations for at least 11 other Department Programs contain sections relating to defaults, cancellations or terminations.

Alternatives Considered: None.

Prescribed Actions, Procedures, Technologies or Performance Standards: None.

Fiscal and Economic Impacts: A recipient could potentially lose some or all of their CalHome funding commitment or could be forced to repay CalHome loan funds or could face foreclosure due to failure to perform.

Discussion:

Subsection (a)(1-3) The Department has the option to cancel all or any portion of a funding commitment prior to disbursement. The Department is charged with the responsibility to produce affordable homeownership through production of new units or preservation of existing units. If it becomes clear that a project or program will not be able to achieve this end or will be significantly delayed at any point, the Department has the option to cancel the commitment and re-award funds to another applicant or project.

There are many conditions that could result in a Department determination that cancellation is in the best interests of the State of California. Some examples would be such things as the discovery of toxics on a proposed project site, inability to obtain local approvals necessary to proceed with project construction, loss of staff necessary to operate a program or complete a project, bankruptcy or lawsuits that would interfere with a recipient's ability to perform, recipient loss of administrative funding, or refusal or inability of an applicant to comply with Program requirements.

Subsection (b) In the case of homeownership project development loans, the Department must have the ability to deal with an actual breach or violation of Program requirements or the requirements of any loan documents necessary to enforce the Department's interests. The conditions listed here are common lender recourse provisions and are common to other Department Programs that loan funds to a housing development project.

Subsection (c) The regulations require the Department to send a notice to a recipient prior to any action to cancel all or a portion of a funding commitment. The recipient has the right to appeal the decision to the Director of the Department. This allows for a higher level of review before cancellation of the commitment, if the recipient requests one.